

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 308 HON. CHARLES W. MC COY, JUDGE
RICHARD BOEKEN,)
)
PLAINTIFF,)
)
VS.) SUPERIOR COURT
) CASE NO. BC 226593
PHILIP MORRIS, INCORPORATED,)
A CORPORATION; INTERNATIONAL HOUSE)
OF PANCAKES, INCORPORATED, A)
CORPORATION,)
)
DEFENDANTS.)
)

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
WEDNESDAY, MAY 2, 2001

P.M. SESSION

VOLUME 26B

PAGES 4171 THROUGH 4253, INCLUSIVE

APPEARANCES:

FOR THE PLAINTIFF: LAW OFFICES OF MICHAEL J. PIUZE

BY: MICHAEL J. PIUZE

11755 WILSHIRE BOULEVARD

SUITE 1170

LOS ANGELES, CALIFORNIA 90025

310.312.1102

FOR THE DEFENDANTS: ARNOLD & PORTER

BY: MAURICE A. LEITER

JOHN CARLTON

777 SOUTH FIGUEROA STREET

FORTY-FOURTH FLOOR

LOS ANGELES, CALIFORNIA 90017-5844

213.243.4199

LINDA STALEY, CSR NO. 3359, RMR, CRR

OFFICIAL REPORTER

I N D E X

WEDNESDAY, APRIL 5, 2001..... 2:1:3

1:38 P.M..... 2:1:7

WITNESS

ELLEN MERLO

DIRECT EXAMINATION BY MR. LEITER..... 2:2:9

EXHIBITS

I.D. 11030 - DEMONSTRATIVE 24..... 2:3:21

I.D. 11030 - DEMONSTRATIVE 80..... 2:8:7

I.D. 11032 - DEMONSTRATIVE 81..... 2:10:11

I.D. 11030 - DEMONSTRATIVE 38..... 2:45:18

I.D. 11030 - DEMONSTRATIVE 24..... 2:53:4

I.D. 11035 - DEMONSTRATIVE 79..... 2:55:4

I.D. 11036 - DEMONSTRATIVE 54..... 2:58:11

I.D. 11036 - DEMONSTRATIVE 37..... 2:62:1

I.D. 11038 - DEMONSTRATIVE 58..... 2:62:9

I.D. 11039 - DEMONSTRATIVE 67..... 2:71:28

4171

1 CASE NUMBER: BC 226593

2 CASE NAME: BOEKEN V. PHILIP MORRIS

3 LOS ANGELES, CALIFORNIA WEDNESDAY, APRIL 5, 2001

4 DEPARTMENT 308 HON. CHARLES W. MC COY, JUDGE

5 APPEARANCES: (AS NOTED ON TITLE PAGE.)

6 REPORTER: LINDA STALEY, CSR NO. 3359, RMR, CRR

7 TIME: 1:38 P.M.

8

9 - - O - -

10

11 THE COURT: ALL RIGHT.

12 OUR JURY PANEL IS WITH US; COUNSEL IS PRESENT

13 AS WELL.

14 GOOD AFTERNOON.

15

16 (CHORUS OF GOOD AFTERNOON'S.)

17

18 THE COURT: GOOD TO SEE YOU.

19 AND WE HAVE A WITNESS ON THE WITNESS STAND.

20 MA'AM, WOULD YOU PLEASE JUST RISE.

21 THE WITNESS: YES.

22 THE COURT: FACE MY CLERK RIGHT THERE, AND RAISE YOUR

23 RIGHT HAND AND BE SWORN AS A WITNESS IN THIS MATTER.

24

25 ELLEN MERLO,

26 CALLED AS A WITNESS BY THE DEFENDANTS, HAVING BEEN FIRST DULY

27 SWORN, TESTIFIED AS FOLLOWS:

28 THE CLERK: HAVE A SEAT.

4172

1 AND FOR OUR RECORD, IF YOU COULD STATE YOUR

2 FIRST AND LAST NAME AND SPELL YOUR LAST NAME, PLEASE.

3 THE WITNESS: YES. MY NAME IS ELLEN, E-L-L-E-N,

4 MERLO, M-E-R-L-O.

5 THE CLERK: THANK YOU.

6 MR. LEITER: THANK YOU, YOUR HONOR.

7 THE COURT: YES, SIR.

8

9 DIRECT EXAMINATION

10 BY MR. LEITER:

11 Q. GOOD AFTERNOON, MS. MERLO.

12 A. GOOD AFTERNOON.

13 Q. WHERE ARE YOU EMPLOYED?

14 A. AT PHILIP MORRIS, INCORPORATED.

15 Q. PHILIP MORRIS INCORPORATED IS THE DOMESTIC

16 TOBACCO COMPANY?

17 A. THAT'S CORRECT.

18 Q. WHERE DO YOU WORK?

19 A. IN NEW YORK.

20 Q. AND WHAT IS YOUR CURRENT POSITION AND TITLE?

21 A. I'M SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS

22 FOR PHILIP MORRIS.

23 Q. WHAT DO YOU DO AS SENIOR VICE-PRESIDENT OF

24 CORPORATE AFFAIRS AT PHILIP MORRIS?

25 A. WELL, I'M, FIRST OF ALL, PART OF THE SENIOR

26 MANAGEMENT TEAM OF PHILIP MORRIS, INCORPORATED, OR

27 PHILIP MORRIS USA -- WE REFER TO IT AS BOTH -- AND IN MY

28 FUNCTION, I'M RESPONSIBLE FOR BOTH INTERNAL AND EXTERNAL

4173

1 COMMUNICATIONS, COMMUNITY RELATIONS, CHARITABLE

2 CONTRIBUTIONS, PUBLIC AFFAIRS AND CORPORATE RESPONSIBILITY

3 PROGRAMS AND PLANNING.

4 Q. TO WHOM DO YOU REPORT AT PHILIP MORRIS?

5 A. I REPORT TO MICHAEL SZYMANCZYK, WHO IS

6 PRESIDENT AND CEO OF PHILIP MORRIS.

7 Q. AND THE SPELLING IS DIFFICULT, SO WE'LL DO IT

8 FOR THE COURT REPORTER.

9 S-Z-Y-M-A-N-C-Z-Y-K. DID I GET THAT RIGHT?

10 A. YOU DID.

11 Q. MR. SZYMANCZYK IS THE CEO AND PRESIDENT OF

12 PHILIP MORRIS?

13 A. THAT'S CORRECT.

14 Q. HAVE YOU BROUGHT WITH YOU PART OF THE
15 ORGANIZATION CHART OF PHILIP MORRIS USA THAT SHOWS WHERE YOU
16 ARE?

17 A. YES, I HAVE.

18 Q. COULD WE PUT UP DEMONSTRATIVE 24, WHICH I
19 BELIEVE SHOULD BE MARKED AS, I BELIEVE, 11,030.

20

21 (I.D. 11030 - DEMONSTRATIVE 24)

22

23 Q. BY MR. LEITER: ARE YOU FAMILIAR WITH THAT
24 CHART, MS. MERLO?

25 A. YES, I AM.

26 Q. NOW, THE AREA THAT IS IN YELLOW, SENIOR
27 VICE-PRESIDENT, CORPORATE AFFAIRS, IS THAT YOU?
28 A. IT IS.

4174

1 Q. AND I KNOW THERE ARE NINE BOXES AT THAT LEVEL.
2 ARE YOU ONE OF THE NINE PEOPLE WHO REPORTS DIRECTLY TO
3 MR. SZYMANCZYK, THE PRESIDENT AND CEO OF PHILIP MORRIS USA?
4 A. THAT'S CORRECT.

5 Q. BEFORE WE GET TO THE SUBSTANCE OF YOUR
6 TESTIMONY, I'D LIKE TO TALK A LITTLE BIT ABOUT YOUR
7 BACKGROUND.

8 COULD YOU TELL THE JURY ABOUT YOUR SCHOOLING,
9 STARTING WITH HIGH SCHOOL?

10 A. YES. I GRADUATED FROM MEMORIAL HIGH SCHOOL IN
11 WEST NEW YORK, NEW JERSEY IN 1958. THEN WENT ON TO
12 KATHERINE GIBBS SECRETARIAL SCHOOL FOR TWO YEARS. WAS
13 CERTIFIED FROM KATHRYN GIBBS IN EARLY 1960. AND THEN STARTED
14 WORKING.

15 Q. WHERE DID YOU GO TO WORK AFTER YOU FINISHED AT
16 KATHERINE GIBBS SECRETARIAL SCHOOL?

17 A. YOUNG & RUBICAM ADVERTISING AGENCY.

18 Q. IS IT FAIR TO SAY THAT OVER THE COURSE OF YOUR
19 CAREER, YOU'VE WORKED YOUR WAY UP FROM A SECRETARY TO BE
20 SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS AT
21 PHILIP MORRIS USA?

22 A. YES, THAT'S CORRECT.

23 Q. OKAY. COULD YOU TELL THE JURY A LITTLE BIT
24 ABOUT THE JOBS YOU HELD BEFORE YOU WENT TO PHILIP MORRIS?

25 A. WELL, AS I SAY, I STARTED AT YOUNG & RUBICAM.

26 I WORKED VERY BRIEFLY AFTER I WAS -- I WAS AT YOUNG & RUBICAM
27 FOR A VERY SHORT TIME. WORKED FOR REVOLN COSMETICS FOR A
28 WHILE. AND THEN WENT TO WORK FOR ANOTHER ADVERTISING AGENCY

4175

1 CALLED ROBERT OTTO INTAM. I WAS THERE FOR ABOUT TWO YEARS.
2 AND THEN WENT TO WORK FOR ZIFF-DAVIS PUBLISHING COMPANY WHERE
3 I STARTED AS A SECRETARY AND THEN BECAME ASSISTANT TO THE
4 DIRECTOR OF CREATIVE SERVICES.

5 AT THAT TIME, WHICH WAS IN 1966, I DECIDED TO
6 MOVE TO CALIFORNIA. AND I CAME TO LOS ANGELES AND LIVED HERE
7 FOR ABOUT THREE AND A HALF YEARS. AND WHILE HERE, I WORKED
8 FOR PETERSEN PUBLISHING COMPANY; FIRST AS PRODUCTION EDITOR
9 AND THEN MANAGING EDITOR OF "MOTOR TREND" MAGAZINE AND --

10 Q. AFTER THREE AND A HALF YEARS HERE IN
11 LOS ANGELES, YOU MOVED BACK TO NEW YORK?

12 A. WELL, BY WAY OF MONTREAL, CANADA. BUT
13 ULTIMATELY, BACK TO NEW YORK, YES.

14 Q. OKAY. WHEN DID YOU START AT PHILIP MORRIS?

15 A. IN 1969. NOVEMBER OF 1969.

16 Q. SO YOU'VE BEEN AT PHILIP MORRIS FROM
17 NOVEMBER OF 1969 THROUGH TODAY?

18 A. THAT'S CORRECT.

19 Q. SO THAT'S ABOUT, WHAT, 32 YEARS?

20 A. CLOSE TO 32 YEARS.

21 Q. AND COULD YOU PLEASE OUTLINE FOR THE JURY WHAT

22 JOBS YOU'VE HELD OVER YOUR 32 YEARS AT PHILIP MORRIS?

23 A. WELL, I STARTED IN MONTREAL FOR A SUBSIDIARY OF
24 PHILIP MORRIS, WHICH WAS BENSON AND HEDGES, CANADA, LIMITED
25 AS A MANAGER OF -- IT WAS KIND OF A COMMUNITY RELATIONS
26 CORPORATE AFFAIRS KIND OF JOB.

27 AND I WAS IN CANADA FOR ALMOST A YEAR. AND

28 THEN WAS TRANSFERRED BACK TO NEW YORK WHERE I DID A SIMILAR

4176

1 KIND OF JOB FOR PHILIP MORRIS IN EVENT SPONSORSHIP AND DID
2 THAT FOR ABOUT TWO YEARS. THEN I BECAME AN ASSISTANT BRAND
3 MANAGER ON VIRGINIA SLIMS.

4 AND THEN I SUBSEQUENTLY WAS BRAND MANAGER OF
5 SEVERAL OF OUR PRODUCTS. I WAS DIRECTOR OF MERCHANDISING IN
6 1978 FOR A FEW YEARS. AND THEN I WAS DIRECTOR OF
7 COMMUNICATIONS, GROUP BRAND MANAGER, AND THEN DIRECTOR OF
8 MARKETING SERVICES, VICE-PRESIDENT OF MARKETING SERVICES, AND
9 THEN VICE-PRESIDENT OF CORPORATE AFFAIRS, AND MOST RECENTLY,
10 SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS.

11 Q. SO YOU'VE GOT A NUMBER OF JOBS OVER 32 YEARS.

12 IS IT FAIR TO SAY THAT FOR THE FIRST CERTAIN
13 NUMBER OF YEARS, YOU HAD JOBS INVOLVED IN MARKETING --

14 A. THAT'S CORRECT.

15 Q. -- AND ADVERTISING?

16 AND THEN ABOUT THE BEGINNING OF THE 1990'S, YOU
17 MOVED OVER TO CORPORATE AFFAIRS?

18 A. THAT'S CORRECT.

19 Q. WE'LL TALK IN A LITTLE BIT MORE DETAIL AS WE
20 MOVE ALONG ABOUT SOME OF THOSE JOBS.

21 IS IT FAIR TO SAY THAT OVER THE COURSE OF YOUR
22 32 YEARS, YOU'VE BEEN FAMILIAR WITH MANY OF THE POLICIES AND
23 PRACTICES OF PHILIP MORRIS?

24 A. YES, I THINK THAT'S FAIR.

25 Q. OKAY. NOW, YOU TALKED A LITTLE BIT ABOUT YOUR
26 RESPONSIBILITIES TODAY AS SENIOR VICE-PRESIDENT OF CORPORATE
27 AFFAIRS.

28 ARE YOU THE HIGHEST RANKING PERSON IN CORPORATE
4177

1 AFFAIRS IN PHILIP MORRIS USA?

2 A. YES.

3 Q. OKAY. NOW, I SEE THAT THAT DEMONSTRATIVE
4 11,030 IS DESIGNATED PHILIP MORRIS USA SENIOR MANAGEMENT
5 TEAM.

6 WHAT IS THE SENIOR MANAGEMENT TEAM AT
7 PHILIP MORRIS?

8 A. THE SENIOR MANAGEMENT TEAM IS A GROUP OF
9 FUNCTIONAL VICE-PRESIDENTS -- SENIOR VICE-PRESIDENTS. BY
10 THAT, I MEAN, EVERY AREA OF PHILIP MORRIS HAS A SENIOR
11 VICE-PRESIDENT THAT RUNS THAT FUNCTION, AND ALL OF US REPORT
12 TO MIKE SZYMANCZYK, WHO IS THE PRESIDENT AND CEO OF
13 PHILIP MORRIS USA. AND WE NOT ONLY RUN OUR FUNCTIONS, BUT WE
14 MEET TOGETHER AS A MANAGEMENT TEAM TO DEAL WITH ALL OF THE
15 ISSUES AND THE BUSINESS OF PHILIP MORRIS USA.

16 Q. IS IT FAIR TO SAY THAT THE SENIOR MANAGEMENT
17 TEAM HAS SOME RESPONSIBILITY FOR ALL THE PRACTICES AND
18 POLICIES AT PHILIP MORRIS USA?

19 A. THAT'S CORRECT.

20 Q. FIRST SUBJECT THAT I'D LIKE TO ASK YOU ABOUT,
21 MS. MERLO, IS CAUSATION AND ADDICTION.

22 DO YOU UNDERSTAND WHAT I MEAN BY CAUSATION AND
23 ADDICTION?

24 A. I DO.
25 Q. CAUSATION REFERS TO WHAT?
26 GENERALLY, THE SUBJECT --
27 A. THE SUBJECT GOES TO CAUSE OF DISEASE OR WHAT
28 SOMETHING MIGHT RESULT IN.

4178
1 Q. AND ADDICTION REFERS TO THE ADDICTIVENESS OF
2 CIGARETTES?
3 A. THE ADDICTIVENESS OF A PRODUCT.
4 Q. LET'S PUT UP DEMONSTRATIVE NO. 80.
5 AND LET'S MARK IT AT 11,031.

6
7 (I.D. 11030 - DEMONSTRATIVE 80)
8

9 Q. BY MR. LEITER: DO YOU RECOGNIZE THAT,
10 MS. MERLO?
11 A. YES, I DO.
12 Q. WHAT IS IT?
13 A. THAT IS THE PHILIP MORRIS USA WEBSITE, AND
14 SPECIFICALLY, THAT IS THE SECTION OF THE WEBSITE THAT HAS TO
15 DO WITH CAUSATION.

16 Q. AND IF ANY OF US WERE TO GO ON THE WEB TONIGHT
17 AND LOOK UP THE PHILIP MORRIS USA WEBSITE TO LOOK FOR THE
18 STATEMENT ABOUT SMOKING AND HEALTH, THIS IS WHAT WE WOULD
19 FIND?

20 A. YES.
21 THE COURT: OF COURSE, IF I MAY JUST INSERT FOR JUST
22 ONE SECOND.
23 NONE OF THE JURY AND NOT THE JUDGE, EITHER,
24 WOULD EVER DO THAT DURING THE COURSE OF THIS TRIAL, WOULD WE?
25 THANK YOU VERY MUCH.

26 MR. LEITER: THANK YOU, YOUR HONOR. I WASN'T
27 SUGGESTING THAT.

28 THE COURT: NOT AT ALL. I NEEDED TO REMIND MYSELF,
4179

1 AND I THOUGHT I WOULD REMIND THE JURY AT THE SAME TIME.
2 Q. BY MR. LEITER: IS THAT THE CURRENT POSITION
3 THAT EXISTS TODAY?
4 A. THAT IS, YES.

5 Q. AND IT SAYS -- IT'S THE PART THAT HAS BEEN
6 HIGHLIGHTED FOR THE JURY FROM THE WEBSITE PAGE IS (READING):
7

8 "WE AGREE WITH THE
9 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS
10 THAT CIGARETTE SMOKING CAUSES LUNG CANCER,
11 HEART DISEASE, EMPHYSEMA AND OTHER SERIOUS
12 DISEASES IN SMOKERS."

13
14 IS THAT YOUR UNDERSTANDING OF PHILIP MORRIS'
15 POSITION ABOUT THE HEALTH RISKS OF SMOKING?
16 A. YES.

17 Q. AND IS IT YOUR UNDERSTANDING THAT
18 PHILIP MORRIS' POSITION IS THE SAME POSITION AS THAT OF THE
19 SURGEON GENERAL AND THE PUBLIC HEALTH AUTHORITIES?

20 A. YES.

21 Q. DOES THE WEBSITE PAGE THAT WE ARE LOOKING AT
22 ALSO OFFER LINKS TO FURTHER INFORMATION ABOUT SMOKING AND
23 HEALTH?

24 A. YES. THE ENTIRE WEBSITE BY VARIOUS SECTIONS
25 HAS LINKS TO THE SURGEON GENERAL, TO THE AMERICAN CANCER
26 SOCIETY, TO THE CENTER FOR DISEASE CONTROL. DEPENDING ON
27 WHAT THE TOPIC IS, IF THERE'S LITERATURE ABOUT THAT TOPIC
28 FROM A GOVERNMENT AGENCY OR A PUBLIC HEALTH AGENCY, WE HAVE A

4180

1 LINK TO THEIR WEBSITE SO THAT PEOPLE WHO VISIT OUR WEBSITE

2 CAN GET MORE INFORMATION.

3 Q. SO SOMEBODY WHO WANTS MORE INFORMATION ABOUT

4 THE HEALTH RISKS COULD START AT PHILIP MORRIS' SITE AND LINK

5 FROM THERE TO THE SURGEON GENERAL'S REPORTS OR TO

6 PUBLIC HEALTH AUTHORITIES' REPORTS?

7 A. THAT'S CORRECT.

8 MR. LEITER: LET'S, PLEASE, PUT UP DEMONSTRATIVE 81,

9 AND MARK IT AS 11,032.

10

11 (I.D. 11032 - DEMONSTRATIVE 81)

12

13 Q. BY MR. LEITER: WHAT IS THAT, MS. MERLO?

14 A. THAT'S THE SECTION THAT HAS TO DO WITH SMOKING

15 AND ADDICTION.

16 Q. AND THIS IS PHILIP MORRIS' WEBSITE?

17 A. IT IS.

18 Q. CURRENT WEBSITE AS IT EXISTS TODAY?

19 A. THAT'S CORRECT.

20 Q. AND AGAIN, THE PORTION OF THE WEBSITE THAT IS

21 HIGHLIGHTED READS (READING):

22

23 "CIGARETTE SMOKING AND

24 ADDICTION:

25 "WE AGREE WITH THE

26 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS

27 THAT CIGARETTE SMOKING IS ADDICTIVE. IT CAN

28 BE VERY DIFFICULT TO QUIT SMOKING, BUT THIS

4181

1 SHOULD NOT DETER SMOKERS WHO WANT TO QUIT

2 FROM TRYING TO DO SO."

3

4 AND AGAIN, IS IT YOUR UNDERSTANDING THAT THAT

5 IS THE SAME POSITION AS HELD BY THE SURGEON GENERAL AND THE

6 PUBLIC HEALTH AUTHORITIES?

7 A. YES, IT IS.

8 Q. AND DOES THE WEBSITE OFFER, AS IT DID FOR THE

9 POSITION ON SMOKING AND HEALTH, LINKS TO PUBLIC HEALTH

10 AUTHORITY INFORMATION ABOUT ADDICTION?

11 A. PUBLIC HEALTH AUTHORITY INFORMATION AS WELL AS

12 LINKS TO SITES THAT WOULD TALK ABOUT HOW YOU MIGHT QUIT IF

13 YOU SO DESIRED.

14 Q. SO THE WEBSITE ALSO OFFERS LINKS TO INFORMATION

15 FOR PEOPLE WHO WANT TO QUIT SMOKING?

16 A. THAT'S CORRECT.

17 Q. HOW LONG HAS THIS WEBSITE BEEN IN OPERATION?

18 A. ALMOST TWO YEARS.

19 Q. AND IS THE PURPOSE OF THIS WEBSITE TO PROMOTE

20 PHILIP MORRIS CIGARETTE BRANDS, SUCH AS MARLBORO OR ANY OTHER

21 BRANDS?

22 A. NO. IN FACT, YOU WON'T FIND CIGARETTE BRAND

23 NAMES ON THE WEBSITE, EXCEPT IN THE SECTION THAT LISTS

24 INGREDIENTS BY BRAND, AND THEN WE IDENTIFY THE BRAND AND THE

25 INGREDIENTS THAT ARE PART OF THAT BRAND. OTHER THAN THAT,

26 THE WEBSITE IS STRICTLY TO TALK ABOUT PHILIP MORRIS'

27 POSITIONS, POLICIES, PROGRAMS, BUT IT IS NOT A MARKETING SITE

28 AT ALL.

4182

1 Q. IT DOESN'T OFFER ADVERTISING?

2 A. NOT AT ALL.

3 Q. DOESN'T OFFER PROMOTIONS FOR CIGARETTES?

4 A. NO.

5 Q. OR DISCOUNTS FOR CIGARETTE BRANDS?

6 A. IT HAS NOTHING TO DO WITH THE MARKETING OF OUR
7 PRODUCT. NONE OF THAT APPEARS.

8 Q. YOU REFERRED TO A PAGE ON THE WEBSITE WHICH
9 TALKS ABOUT INGREDIENTS.

10 CAN YOU EXPLAIN WHAT YOU MEANT BY THAT?

11 A. WELL, AGAIN, WE LIST THE INGREDIENTS IN EACH
12 ONE OF OUR PRODUCTS AS WELL AS THE TAR AND NICOTINE LEVELS IN
13 ALL OF OUR PRODUCTS. SO WHEN YOU GO TO THE WEBSITE, YOU CAN
14 FIND OUT JUST ABOUT EVERYTHING ABOUT THE PRODUCT UNDER
15 DIFFERENT SECTIONS ON THE WEBSITE.

16 Q. NOW, YOU SAID THIS WEBSITE HAS BEEN IN
17 OPERATION SINCE 1999 OR SO?

18 A. THAT'S CORRECT.

19 Q. OKAY. IN THE FIRST VERSION OF THE WEBSITE --
20 AND I THINK THE JURY HAS SEEN A PAGE FROM A PRIOR VERSION OF
21 THE WEBSITE -- DID PHILIP MORRIS SAY SOMETHING SLIGHTLY
22 DIFFERENT ABOUT SMOKING AND HEALTH AND ADDICTION?

23 A. YES.

24 Q. AND WHAT DID IT SAY AT THAT TIME?

25 A. IT SAID THAT THERE IS OVERWHELMING MEDICAL AND
26 SCIENTIFIC CONSENSUS -- IT WAS PRETTY MUCH THE SAME LANGUAGE
27 THAT IS USED NOW, BUT THE WORDS "WE AGREE" WERE NOT -- DID
28 NOT PREFACE THE STATEMENT.

4183

1 Q. NOW, BEFORE LAUNCHING THAT WEBSITE IN 1999, DID
2 PHILIP MORRIS TEST PEOPLE'S UNDERSTANDING OF ITS POSITION AT
3 THE TIME ON CAUSATION AND ADDICTION?

4 A. YES. WE TESTED THE POSITIONS AS WELL AS THE
5 EASE OF GETTING TO THE INFORMATION, WHETHER PEOPLE COULD
6 NAVIGATE THE SITE, WHETHER IT WAS WHAT THEY EXPECTED TO FIND,
7 ET CETERA, WHEN THEY NAVIGATED IT.

8 Q. NOW, THE PRIOR VERSION WAS DIFFERENT BECAUSE IT
9 DIDN'T HAVE THE WORDS "WE AGREE" AT THE BEGINNING; IS THAT
10 RIGHT?

11 A. THAT'S CORRECT.

12 Q. DID YOU DEVELOP AN UNDERSTANDING FROM THE TESTS
13 OF WHAT PEOPLE UNDERSTOOD THE EARLIER WEBSITE TO MEAN?

14 A. THE TAKE-AWAY AND THE RESEARCH THAT WE
15 CONDUCTED WAS THAT PEOPLE THOUGHT, BECAUSE IT WAS THE
16 PHILIP MORRIS WEBSITE, THAT THAT WAS OUR POSITION ON THE
17 ISSUES, THAT WHAT WAS ON THAT WEBSITE WAS PHILIP MORRIS'
18 POSITION ON ISSUES.

19 Q. SO IT WAS YOUR UNDERSTANDING WHEN THE INITIAL
20 WEBSITE WAS LAUNCHED THAT IT SET FORTH PHILIP MORRIS'
21 POSITION?

22 A. THAT'S CORRECT.

23 Q. SO WHAT WAS THE PURPOSE OF CHANGING IT AT SOME
24 LATER POINT THAT "WE AGREE"?

25 A. WELL, THERE WERE SOME WHO FELT -- ESPECIALLY
26 PEOPLE IN THE HEALTH COMMUNITY AND OTHERS -- THAT NOT HAVING
27 THE WORDS "WE AGREE" LEFT ROOM OR DOUBT AS TO WHAT OUR ACTUAL
28 POSITION WAS. AND ALTHOUGH WE HAD, AS I SAY, RESEARCH THAT

4184

1 SHOWED THAT PEOPLE DID TAKE AWAY THAT IT WAS OUR POSITION, WE
2 THOUGHT THAT WAS A VALID POINT, AND THEREFORE, WE ADDED THE
3 WORDS "WE AGREE" SO THAT THERE WOULD BE NO DOUBT WHATSOEVER.

4 Q. HAD YOU INTENDED -- HAD PHILIP MORRIS INTENDED
5 TO CREATE AMBIGUITY ABOUT ITS OWN POSITION WHEN IT FIRST
6 LAUNCHED THE WEBSITE?

7 A. NO, WE DIDN'T.

8 Q. BUT THE FEEDBACK INDICATED THAT AT LEAST SOME
9 CRITICS THOUGHT IT MIGHT BE AMBIGUOUS?

10 A. THAT'S CORRECT.
11 Q. SO AS A RESULT --
12 A. WE MADE THE CHANGE.
13 Q. -- PHILIP MORRIS WENT BACK AND MADE THE CHANGE?
14 A. YES.
15 Q. IS IT FAIR TO SAY THAT PHILIP MORRIS ADOPTED
16 THE SURGEON GENERAL'S POSITIONS IN, WHAT, ABOUT 1999,
17 EXPLICITLY?
18 A. ACTUALLY, WE WERE ENCOURAGING PEOPLE TO RELY
19 ON -- IN STATING THE SURGEON GENERAL'S POSITION PRIOR TO
20 1999, PRIOR TO THE WEBSITE BEING LAUNCHED BACK TO THE MID
21 '90'S, I WOULD SAY.
22 Q. SO STARTING BACK IN THE MID 90'S, PHILIP MORRIS
23 WAS ENCOURAGING PEOPLE TO PAY ATTENTION TO WHAT THE PUBLIC
24 HEALTH AUTHORITIES WERE SAYING?
25 A. AND TO ACCEPT THE INTERPRETATION AND THE
26 CONCLUSIONS DRAWN BY THE PUBLIC HEALTH COMMUNITY.
27 Q. AND DURING THAT PERIOD FROM THE MID 90'S ON,
28 WAS PHILIP MORRIS -- UNTIL THE WEBSITE WAS LAUNCHED -- WAS
4185
1 PHILIP MORRIS SAYING ANYTHING AFFIRMATIVELY ABOUT THE ISSUE?
2 A. NO, NOT AT ALL.
3 Q. AND BY LAUNCHING THE WEBSITE, PHILIP MORRIS
4 ESSENTIALLY ARTICULATED THE PUBLIC HEALTH AUTHORITIES'
5 POSITION, IS THAT FAIR?
6 A. THAT IS CORRECT, YES.
7 Q. WHEN PHILIP MORRIS ADOPTED THE PUBLIC HEALTH
8 AUTHORITIES' POSITION, WAS IT A RESULT OF ANY PARTICULAR
9 CHANGE IN ANY SCIENTIFIC KNOWLEDGE?
10 A. NO, IT WASN'T.
11 Q. WHY DID PHILIP MORRIS ADOPT THE POSITION?
12 A. BECAUSE WE THOUGHT IT WAS THE APPROPRIATE
13 POSITION TO ADOPT. THAT THERE WAS A CONSENSUS WITHIN THE
14 SCIENTIFIC COMMUNITY. AND WE FELT THAT FROM THE STANDPOINT
15 OF THE PUBLIC HEALTH AND SOCIETY, THAT THAT WAS THE
16 APPROPRIATE INTERPRETATION, AND THAT THAT'S WHAT PEOPLE
17 SHOULD RELY ON IN MAKING THEIR DECISION AS TO WHETHER OR NOT
18 TO SMOKE.
19 Q. AND WE'RE GOING TO GO BACK AND TALK ABOUT PRIOR
20 POSITIONS AND ISSUES AROUND THAT. BUT LET ME ASK YOU THIS UP
21 FRONT.
22 LOOKING BACK, SHOULD PHILIP MORRIS HAVE ADOPTED
23 THE PUBLIC HEALTH AUTHORITIES' POSITION ON CAUSATION AND
24 ADDICTION SOONER THAN IT DID?
25 A. YES, I BELIEVE WE SHOULD HAVE.
26 Q. WHY?
27 A. BECAUSE WHILE I BELIEVE THAT OUR POSITION IN
28 THE PAST WAS REASONABLE AND ACCURATE AND SCIENTIFICALLY
4186
1 CORRECT, WE TENDED TO -- OR WE TALKED ABOUT WHAT WE DIDN'T
2 KNOW, WHICH WAS THE CONSTITUENTS IN CIGARETTES THAT MIGHT
3 CAUSE DISEASE AND THE MECHANISM IN CIGARETTES THAT MIGHT
4 CAUSE DISEASE.
5 AND THERE WAS NO REAL PROOF AS TO WHAT THAT
6 WAS. THERE WAS NO EVIDENCE AS TO WHAT ACTUALLY CAUSED THE
7 DISEASE. AND SO WHILE I THINK OUR POSITION WAS ACCURATE, I
8 THINK FROM A PUBLIC HEALTH STANDPOINT, IT WAS NOT COMPLETE
9 AND, THEREFORE, I THINK WE SHOULD HAVE SOONER EMBRACED THE
10 PUBLIC HEALTH COMMUNITY'S POSITION.
11 Q. AND AGAIN, WE'LL TALK ABOUT THIS A LITTLE MORE
12 AS WE MOVE ALONG. BUT WE TALKED ABOUT FROM THE PUBLIC HEALTH
13 STANDPOINT IT WOULD HAVE BEEN A GOOD IDEA TO ADOPT IT SOONER.
14 IN ADDITION TO THAT, WHAT EFFECT DID NOT

15 ADOPTING THE SURGEON GENERAL'S POSITION EARLIER HAVE ON
16 PHILIP MORRIS?

17 A. WELL, I THINK THAT IT CERTAINLY ERODED OUR
18 CREDIBILITY WITH SOCIETY. IT, I THINK, MADE US LOOK LIKE WE
19 WERE OUT OF TOUCH. IT, I BELIEVE, CREATED A BIT OF A BUNKER
20 MENTALITY WITHIN PHILIP MORRIS, AND I THINK IT PRESENTED SOME
21 LOST OPPORTUNITY FOR US IN NOT ADOPTING THAT POSITION SOONER.

22 Q. AS WE SIT HERE TODAY, DO YOU BELIEVE
23 PHILIP MORRIS IS AMONG THE MORE RESPECTED CORPORATIONS IN
24 AMERICA?

25 A. UNFORTUNATELY, WE ARE NOT.

26 Q. CAN YOU EXPLAIN WHY YOU THINK THAT?

27 A. WELL, BECAUSE I THINK THAT WE DEFINITELY FELL
28 OUT OF ALIGNMENT WITH SOCIETY'S EXPECTATION OF US. AND AS A
4187

1 RESULT, THERE HAVE BEEN ARTICLES WRITTEN OVER THE LAST MANY
2 YEARS; ONE, MOST SIGNIFICANTLY, BY "BUSINESS WEEK" CALLING US
3 ONE OF THE MOST REVILED COMPANIES IN AMERICA.

4 AND, YOU KNOW, THAT, OBVIOUSLY, HAS HAD AN
5 IMPACT ON THE COMPANY, ON ITS EMPLOYEES, ET CETERA. SO I
6 THINK THAT WE -- DEFINITELY, THERE WAS A BIG GAP IN OUR
7 CREDIBILITY AS FAR AS THE PUBLIC WAS CONCERNED AND THE
8 POSITIONS WE WERE TAKING.

9 Q. I WANT TO GO BACK IN TIME AND TALK ABOUT SOME
10 OF THE ISSUES THAT WE'VE JUST BEEN ALLUDING TO.

11 FIRST, LET'S BE CLEAR ON WHAT PHILIP MORRIS'
12 POSITION ON SMOKING AND HEALTH WAS AND WASN'T OVER THE YEARS.
13 WE'VE TALKED ABOUT ADOPTING THE SURGEON
14 GENERAL'S POSITION FROM ABOUT THE MID 90'S ON, IS THAT FAIR?

15 A. THAT'S CORRECT.

16 Q. AND ULTIMATELY, RESULTING IN THE WEBSITE BEING
17 LAUNCHED IN 1999, CORRECT?

18 A. THAT'S CORRECT.

19 Q. WORKING BACK FROM 1995, WHAT WAS PHILIP MORRIS'
20 POSITION AT THAT TIME ON THE ISSUE OF WHETHER SMOKING CAUSES
21 DISEASE?

22 A. OUR PUBLIC POSITION WAS THAT SMOKING WAS A RISK
23 FACTOR IN DISEASE.

24 Q. WHAT DO YOU MEAN BY A RISK FACTOR?

25 WHAT DID PHILIP MORRIS MEAN BY A RISK FACTOR?

26 A. WHAT WE MEANT BY A RISK FACTOR IS THAT SMOKING
27 CERTAINLY PRESENTED A RISK TO THOSE WHO CHOSE TO SMOKE, AND
28 THAT THEIR CHANCES OF GETTING DISEASE WAS PROBABLY HIGHER
4188

1 THAN SOMEONE WHO DIDN'T SMOKE.

2 Q. AND WHEN PHILIP MORRIS REFERRED TO SMOKING
3 PUBLICLY AS A RISK FACTOR, DID THAT -- WAS THAT INTENDED TO
4 SUGGEST THAT SMOKING WAS SAFE?

5 A. NO.

6 Q. WAS IT INTENDED TO SUGGEST THAT SMOKING WAS NOT
7 RISKY?

8 A. NO. RISK FACTOR MEANS THAT THERE IS RISK
9 ASSOCIATED WITH SMOKING.

10 Q. AND FOR HOW LONG -- LET ME START THAT OVER
11 AGAIN.

12 TO YOUR KNOWLEDGE, WHEN DID PHILIP MORRIS START
13 TO REFER TO SMOKING AS A RISK FACTOR?

14 A. WELL, I WROTE -- IN THE '80'S, WE STARTED TO
15 REFER TO IT THAT WAY. AND IN AN ANNUAL REPORT IN THE
16 MID '80'S, THE THEN CHAIRMAN IN HIS LETTER TO SHAREHOLDERS
17 DESCRIBED SMOKING AS A RISK FACTOR.

18 Q. LET'S GO BACK A LITTLE FURTHER IN TIME.
19 YOU STARTED WITH THE COMPANY, YOU SAID, IN

20 NOVEMBER OF 1969?

21 A. THAT'S CORRECT.

22 Q. BETWEEN, LET'S SAY, THAT TIME AND THE MID '80'S
23 AS WE WERE TALKING ABOUT WHEN PHILIP MORRIS STARTED TO REFER
24 TO THE HEALTH RISKS OF SMOKING AS A RISK FACTOR, WHAT WAS
25 PHILIP MORRIS' POSITION IN THOSE EARLIER YEARS?

26 A. OUR POSITION WAS THAT CAUSATION HAD NOT BEEN
27 FIRMLY ESTABLISHED. THAT MECHANISM AND CONSTITUENTS WERE
28 UNKNOWN AND, THEREFORE, THERE IS NOT A DIRECT LINK

4189

1 ESTABLISHED BETWEEN SMOKING AND DISEASE.

2 Q. NOW, I KNOW YOU'RE NOT A SCIENTIST, FAIR
3 ENOUGH?

4 A. YES.

5 Q. AND SO I'M NOT GOING TO ASK YOU FOR SCIENTIFIC
6 EXPLANATIONS.

7 BUT YOU WERE FAMILIAR WITH PHILIP MORRIS'
8 POSITION AT THE TIME, CORRECT?

9 A. I WAS.

10 Q. WHAT WAS YOUR UNDERSTANDING OF WHAT WAS MEANT
11 WHEN YOU SAID CONSTITUENTS AND MECHANISM WERE NOT POSITIVE?
12 WHAT ARE CONSTITUENTS AND MECHANISM, AND WHAT
13 IS THE BASIS FOR THE REASON THAT THEY HADN'T IMPROVED?

14 A. WELL, CONSTITUENTS ARE THOSE THINGS IN THE
15 PRODUCT THAT MIGHT ACTUALLY CAUSE THE DISEASE; THE
16 INGREDIENTS OR WHAT MIGHT BE CONTAINED IN THE TOBACCO, ET
17 CETERA. AND MECHANISM IS HOW IS THE DISEASE ACTUALLY
18 TRIGGERED IN SOMEONE. AND THAT HAD NOT BEEN PROVEN.

19 I'M NOT SURE THAT WE KNOW TODAY. I DON'T THINK
20 WE KNOW TODAY -- AGAIN, I'M NOT A SCIENTIST -- EXACTLY WHAT
21 THE MECHANISM IS THAT CREATES THE DISEASE. AND SO THAT WAS
22 OUR POSITION, THAT IT HAD NOT BEEN PROVEN.

23 Q. AND WAS IT YOUR UNDERSTANDING THAT THAT'S WHAT
24 SCIENTISTS WERE SAYING AT THE TIME?

25 A. SCIENTISTS WERE SAYING THAT AT THE TIME, THAT'S
26 CORRECT.

27 Q. AND EVEN TODAY, AS YOU JUST MENTIONED, WE DON'T
28 KNOW EVERYTHING ABOUT CONSTITUENT AND MECHANISM -- YOU HAVE

4190

1 TO ANSWER YES OR NO -- IS THAT CORRECT?

2 A. WE DO NOT.

3 Q. OKAY. NOW, WHY WOULD MECHANISM AND
4 CONSTITUENTS -- WHY WOULD KNOWING HOW CANCER BEGINS OR
5 PRECISELY WHAT IT IS IN CIGARETTE SMOKE THAT CAUSES CANCER,
6 WHY WOULD THAT BE IMPORTANT TO PHILIP MORRIS?

7 A. WELL, IF YOUR GOAL IS TO TRY AND PRODUCE LESS
8 HARMFUL CIGARETTES, IMPROVE THE QUALITY OF YOUR PRODUCT, TAKE
9 SOME OF THE HARMFUL INGREDIENTS OUT OF THE PRODUCT, YOU NEED
10 TO KNOW THOSE THINGS. SO FROM A SCIENTIFIC STANDPOINT,
11 IDENTIFYING CONSTITUENTS AND MECHANISM WAS VERY IMPORTANT
12 FROM A PRODUCT DEVELOPMENT STANDPOINT.

13 Q. NOW, WHEN PHILIP MORRIS WAS ARTICULATING THAT
14 POSITION THAT CAUSATION HAD NOT BEEN PROVED BECAUSE WE DIDN'T
15 KNOW CONSTITUENTS AND MECHANISM, WAS PHILIP MORRIS SAYING
16 THAT SMOKING DOES NOT CAUSE CANCER OR OTHER DISEASES?

17 A. NO, WE WERE NOT.

18 Q. WAS PHILIP MORRIS SAYING THAT SMOKING WAS NOT
19 HARMFUL?

20 A. WE WERE NOT.

21 Q. BUT PHILIP MORRIS WAS FOCUSING ON WHAT WAS NOT
22 KNOWN INSTEAD OF WHAT WAS KNOWN, IS THAT FAIR?

23 A. THAT IS CORRECT, YES.

24 Q. AND AS YOU MENTIONED A FEW MINUTES AGO, YOU

25 BELIEVE THAT THAT POSITION WAS ACCURATE BUT INCOMPLETE?

26 A. THAT'S CORRECT.

27 Q. AND AS YOU LOOK BACK TODAY, DO YOU THINK

28 PHILIP MORRIS SHOULD HAVE MAINTAINED THAT POSITION FOR AS

4191

1 LONG AS IT DID?

2 A. NO, I DON'T.

3 Q. I WANT TO GO BACK A LITTLE BIT IN A LITTLE BIT

4 MORE DETAIL ABOUT THE 1970'S AND THE 1980'S BEFORE WE GO BACK

5 UP TO THE PRESENT.

6 YOU JOINED PHILIP MORRIS, YOU MENTIONED, IN

7 1969.

8 COULD YOU GENERALLY DESCRIBE FOR THE JURY WHAT

9 THE COMPANY WAS LIKE BACK THEN?

10 A. WELL, IT WAS A VERY -- IT WAS A VERY SMALL

11 COMPANY. IT WAS VERY DIFFERENT THAN IT IS TODAY.

12 PROBABLY WHEN I -- CERTAINLY, WHEN I CAME TO

13 NEW YORK, THERE WERE ABOUT 300 PEOPLE IN THE BUILDING THAT I

14 WORKED IN. EVERY ONE FROM THE SECRETARIES TO THE CHAIRMAN OF

15 THE BOARD WERE ON A FIRST NAME BASIS BECAUSE WE WERE SUCH A

16 SMALL COMPANY. SO WE WERE THE THIRD, AND A DISTANT THIRD,

17 LARGEST COMPANY IN THE INDUSTRY AT THE TIME, AND IT WAS A

18 FAIRLY SMALL COMPANY.

19 Q. AND AT THAT SMALLER COMPANY BACK IN THE EARLY

20 1970'S, HAD MARLBORO YET REACHED THE POSITION WHERE IT WAS

21 THE NUMBER ONE CIGARETTE BRAND IN THE UNITED STATES?

22 A. NO, IT HAD NOT.

23 Q. AND AS YOU MENTIONED, PHILIP MORRIS HAD NOT YET

24 BECOME THE LARGEST CIGARETTE COMPANY IN THE UNITED STATES; IS

25 THAT CORRECT?

26 A. NO, WE HAD NOT.

27 Q. WAS THE MARLBORO LOGO AS WIDESPREAD IN THOSE

28 DAYS AS IT IS TODAY?

4192

1 A. NO, IT WASN'T. NOT AT ALL.

2 Q. LET ME DIGRESS FOR JUST A SECOND. WHEN WE'RE

3 TALKING ABOUT THE MARLBORO LOGO, GENERALLY, WHERE IS THE

4 MARLBORO LOGO DISPLAYED?

5 A. GENERALLY, AT POINT OF SALE IN RETAIL STORES.

6 Q. WHEN YOU SAY "POINT OF SALE," WHAT ARE YOU

7 REFERRING?

8 A. TO THE DISPLAY UNITS THAT YOU MIGHT FIND IN A

9 7-ELEVEN OR A CONVENIENCE STORE OR SUPERMARKET THAT YOU WOULD

10 GO INTO.

11 Q. AND HOW DOES A MARLBORO LOGO OR ANOTHER LOGO OR

12 COCA-COLA GET TO GO UP THERE?

13 DOES THE COMPANY JUST COME UP THERE AND START

14 PLASTERING THINGS UP ON THE WALLS?

15 A. NO. LIKE MANY OTHER CONSUMERS' GROUPS THAT ARE

16 SOLD IN THOSE KIND OF OUTLETS -- IN SOME INDUSTRIES, THEY'RE

17 CALLED SLOTTING ALLOTMENTS. IN SOME INDUSTRIES, THEY'RE

18 CALLED MERCHANDISING PAYMENTS. BUT YOU ACTUALLY PAY TO HAVE

19 YOUR PRODUCT DISPLAYED AND TO HAVE SIGNAGE IN A STORE.

20 Q. AND IN THOSE DAYS WHEN MARLBORO WAS A SMALLER

21 COMPANY -- PHILIP MORRIS -- EXCUSE ME -- WAS A SMALLER

22 COMPANY AND MARLBORO WAS NOT YET THE NUMBER ONE BRAND, THERE

23 WAS FAR LESS MARLBORO LOGO OUT THERE?

24 A. FAR LESS. IT WAS DIFFICULT FOR US TO -- WHEN I

25 JOINED, IT WAS DIFFICULT FOR US TO GET OUR PRODUCT

26 PROMINENTLY DISPLAYED IN THE STORE.

27 Q. WHY?

28 A. BECAUSE WE WERE MUCH SMALLER. R.J. REYNOLDS

4193

1 WAS THE NUMBER ONE COMPANY AT THAT TIME, AND THEY HAD THE
2 MORE DOMINANT POSITION AT RETAIL.

3 Q. NOW, DURING THIS PERIOD LATE 1969 AND THROUGH
4 THE 1970'S, THE JURY HAS HEARD EVIDENCE ABOUT THE PUBLIC
5 ATTENTION BEING GIVEN TO THE HEALTH RISKS OF SMOKING.

6 WAS PHILIP MORRIS' POSITION ON THE HEALTH RISKS
7 OF SMOKING AT THAT TIME AN ISSUE, IN YOUR OPINION?

8 A. I DON'T BELIEVE IT WAS A MAJOR ISSUE.

9 Q. WHY DO YOU SAY THAT?

10 A. WELL, WE WERE ONCE IN A WHILE CALLED FOR
11 COMMENT, BUT NOT THAT FREQUENTLY. THERE WAS A LOT OF
12 INFORMATION FROM THE PUBLIC HEALTH COMMUNITY. I THINK FROM
13 SOME ANTI-SMOKING ACTIVISTS. SO THERE WAS, I BELIEVE, A LOT
14 OF PUBLICITY COVERAGE OF THE WHOLE ISSUE OF SMOKING.

15 BUT WE WERE OFTEN EITHER NOT CALLED OR WE WERE.

16 MORE OFTEN THAN NOT, WE TOOK A POSITION OF NO COMMENT, AND WE
17 DIDN'T REALLY DO A LOT OF INTERVIEWS AT THAT TIME.

18 Q. WHEN YOU SAY PHILIP MORRIS WASN'T CALLED, YOU
19 MEAN BY REPORTERS --

20 A. MEDIA.

21 Q. -- OR MEDIA PEOPLE?

22 A. MEDIA PEOPLE.

23 Q. SO PHILIP MORRIS WASN'T THAT OFTEN SOLICITED
24 FOR ITS VIEW DURING THAT TIME, IS THAT FAIR?

25 A. NO, WE WEREN'T SOLICITED ALL THAT OFTEN. AND
26 EVEN WHEN WE WERE, AS I SAY, WE TENDED TO TAKE MORE OF A
27 NO-COMMENT POSITION.

28 Q. AND THE JURY HAS SEEN SOME EVIDENCE ABOUT THE
4194

1 DISPARITIES IN THE MEDIA COVERAGE BETWEEN THE HEALTH RISKS OF
2 SMOKING AND PUBLICITY OF THE TOBACCO INDUSTRY'S POSITION.

3 WAS PHILIP MORRIS DOING ANYTHING TO ACTIVELY
4 PUBLICIZE ITS POSITION ON CAUSATION IN THE 1970'S?

5 A. NO, WE WERE NOT.

6 Q. WAS THERE A CAMPAIGN TO LET PEOPLE KNOW WHAT
7 PHILIP MORRIS' POSITION WAS?

8 A. NO.

9 Q. AND YOU MENTIONED THAT IT'S YOUR UNDERSTANDING
10 THAT PHILIP MORRIS' POSITION DID NOT GET A GREAT DEAL OF
11 MEDIA ATTENTION AT THE TIME, IS THAT FAIR?

12 A. IT DID NOT.

13 Q. YOU'RE FAMILIAR WITH WHAT THE TOBACCO INSTITUTE
14 IS, ISN'T IT?

15 A. WAS --

16 Q. EXCUSE ME. LET ME START THAT OVER.

17 YOU'RE FAMILIAR WITH THE TOBACCO INSTITUTE?

18 A. YES.

19 Q. WHAT WAS THE TOBACCO INSTITUTE?

20 A. TOBACCO INSTITUTE WAS REALLY A TRADE
21 ORGANIZATION OF THE TOBACCO INDUSTRY. IT REPRESENTED ALL OF
22 THE COMPANIES AND SERVED AS SPOKESPERSON ON ISSUES CONCERNING
23 THE INDUSTRY, REPRESENTED THE INDUSTRY.

24 Q. SO TO YOUR KNOWLEDGE, WAS THE TOBACCO INSTITUTE
25 ON A REGULAR BASIS ACTIVELY TRYING TO GET THE WORD OUT ABOUT
26 THE TOBACCO INDUSTRY'S POSITION?

27 A. I WOULD NOT SAY ON A REGULAR BASIS AND
28 ACTIVELY, NO.

4195

1 Q. HAPPENED OCCASIONALLY?

2 A. OCCASIONALLY, YES.

3 Q. BUT NOT ON A REGULAR BASIS?

4 A. NOT ON A REGULAR BASIS.

5 Q. DO YOU BELIEVE THAT PHILIP MORRIS WAS ACTIVELY

6 TRYING TO PERSUADE PEOPLE THAT ITS POSITION ON SMOKING AND
7 HEALTH WAS CORRECT?

8 A. NO, I DON'T BELIEVE SO.

9 Q. LET'S MOVE AHEAD TO THE 1980'S.

10 IN YOUR VIEW, DID SOCIETY'S ATTITUDES TOWARDS
11 SMOKING AND SMOKERS AND TOBACCO COMPANIES CHANGE DURING THE
12 1980'S?

13 A. YES. I BELIEVE IT DID START TO CHANGE IN THE
14 1980'S.

15 Q. HOW?

16 A. WELL, WHILE I THINK THERE WAS A LOT OF
17 PUBLICITY COVERAGE ABOUT SMOKING AND HOW HARMFUL SMOKING WAS,
18 UP UNTIL THAT POINT, I BELIEVE THAT IN THE 50'S, 60'S, '70'S,
19 THE ATTITUDE WAS MORE OF, THIS IS BAD FOR YOU, BUT IF YOU
20 CHOOSE TO, THAT'S YOUR CHOICE.

21 I THINK IN THE '80'S, REALLY, THINGS STARTED TO
22 CHANGE IN THAT SMOKERS WERE KIND OF MADE PARIAHS. SMOKING
23 BECAME SOCIALLY UNACCEPTABLE. MORE LAWS BANNING SMOKING
24 STARTED TO BE PASSED. IN FACT, THE FIRST ONE WAS PASSED OUT
25 HERE IN CALIFORNIA IN BEVERLY HILLS AT THAT TIME. AND MORE
26 ACROSS THE COUNTRY STARTED TO BE PASSED. AND I REALLY THINK
27 THAT SMOKERS STARTED TO BE LOOKED DOWN ON FOR CHOOSING TO
28 SMOKE.

4196

1 Q. SMOKERS STARTED TO BE TREATED AS PARIAHS AND
2 SMOKING BECAME LESS ACCEPTABLE?

3 A. I BELIEVE SO. AND ALSO, I THINK TOBACCO
4 COMPANIES ALSO STARTED TO BE TREATED THE SAME WAY OR LOOKED
5 AT THE SAME WAY.

6 Q. THAT'S WHAT MY NEXT QUESTION WAS.

7 THE VIEW OF TOBACCO COMPANIES CHANGED AS WELL,
8 YOU BELIEVE?

9 A. I BELIEVE SO, YES.

10 Q. IN WHAT WAY?

11 A. WELL, AGAIN, I THINK THAT BECAUSE TOBACCO
12 BECAME SOCIALLY UNACCEPTABLE, THOSE WHO MARKETED AND SOLD
13 TOBACCO WERE SEEN AS ALSO BEING UNACCEPTABLE, AND I THINK WE
14 WERE STARTED -- WE STARTED TO SEE VILIFICATION OF TOBACCO
15 COMPANIES, DEMONIZATION OF TOBACCO EXECUTIVES. PRETTY MUCH.

16 Q. THE JURY HAS HEARD A LITTLE BIT OF EVIDENCE
17 ABOUT JOSEPH CALIFANO.

18 DO YOU RECALL WHO HE WAS AND WHAT ROLE YOU
19 BELIEVE HE PLAYED IN THIS?

20 A. WELL, YES. HE -- HE IS HE ATTORNEY -- HE WAS
21 ATTORNEY GENERAL, WASN'T HE?

22 SURGEON GENERAL. SORRY. HE --

23 Q. HE WAS A HIGH OFFICIAL IN THE GOVERNMENT?

24 A. YES. HE DEFINITELY, UNTIL THIS DAY, IN FACT,
25 HAS A STRONG BIAS AGAINST TOBACCO AND, I BELIEVE, WAS ONE OF
26 THE FIRST PEOPLE WHO REALLY STARTED THE DIALOGUE THAT HELPED
27 TO MAKE SMOKING QUITE SOCIALLY UNACCEPTABLE AS IT BECAME.

28 STARTED TO DEMONIZE THE COMPANIES, AND I THINK HE REALLY KIND
4197

1 OF RAISED THE LEVEL OF DEBATE TO A NEW LEVEL FOR SMOKERS AND
2 SMOKING.

3 Q. SO IN THE 1980'S, SMOKERS STARTED TO BE TREATED
4 LIKE PARIAHS.

5 WHAT DO YOU MEAN BY PARIAHS?

6 A. OUTCASTS. PEOPLE WHO WERE MAKING BAD DECISIONS
7 THAT THEY SHOULDN'T BE ALLOWED TO MAKE. THEY WERE CERTAINLY
8 NOT WELCOMED IN MANY PLACES. AS I SAID, THERE WERE SMOKING
9 BANS BEING PASSED, ET CETERA.

10 Q. SMOKERS STARTED TO GET TREATED AS PARIAHS,

11 SMOKING BECOMES UNACCEPTABLE, MORE SMOKING RESTRICTIONS,
12 TOBACCO COMPANIES BEING VILIFIED, I THINK WAS THE WORD YOU
13 USED.

14 HOW DID PHILIP MORRIS RESPOND TO ALL OF THESE
15 CHANGES?

16 A. UNFORTUNATELY, I THINK WE KIND OF CIRCLED THE
17 WAGONS AND STARTED TO LOOK INWARD AND GOT VERY DEFENSIVE
18 ABOUT OUR POSITION AND ABOUT OUR CONSUMERS.

19 Q. WHAT DO YOU MEAN BY GOT DEFENSIVE ABOUT OUR
20 POSITION AND ABOUT CONSUMERS?

21 A. WELL, I THINK THAT WE FELT THAT WE -- THE --
22 WE, AS A COMPANY, THE INDUSTRY AND OUR CONSUMERS WERE UNDER
23 ATTACK, AND WE BECAME DEFENSIVE ABOUT IT. AND I THINK -- I
24 THINK OUR BIGGEST MISTAKE WAS WE JUST DIDN'T LISTEN. WE
25 DIDN'T LISTEN AND UNDERSTAND WHAT -- HOW SOCIETY WAS CHANGING
26 AND HOW THEIR FEELINGS ABOUT SMOKING, SMOKERS, US, ET CETERA,
27 WHAT -- REALLY, WHAT POINTS THEY WERE TRYING TO MAKE, AND I
28 THINK WE JUST GOT VERY DEFENSIVE.

4198

1 Q. NOW, YOU MENTIONED THE COMPANY GOT DEFENSIVE,
2 WASN'T LISTENING, WAS HUNKERED DOWN. I'D LIKE TO PROBE A
3 LITTLE BIT MORE AS TO WHAT YOU MEAN BY THAT.

4 HOW DID THE COMPANY RESPOND TO MEDIA REPORTS
5 DURING THIS PERIOD?

6 A. WELL, WE USUALLY AVOIDED MEDIA INTERVIEWS UP
7 UNTIL THAT POINT. DURING THE '80'S, WE JUST ALWAYS MET ANY
8 INQUIRY WITH A NO COMMENT. WE TENDED NOT TO RESPOND, NOT TO
9 DO MEDIA INQUIRIES. WE DID NOT COOPERATE WITH THE MEDIA AT
10 ALL.

11 Q. YOU MENTIONED EARLIER THAT IT WAS SOMEWHERE IN
12 THIS PERIOD THAT PHILIP MORRIS STARTED TALKING ABOUT RISK
13 FACTOR IN CONNECTION WITH SMOKING AND HEALTH.

14 DURING THIS PERIOD, THE 1980'S THAT WE'RE
15 TALKING ABOUT, DID PHILIP MORRIS ACTIVELY PUBLICIZE ITS
16 POSITION ON SMOKING AND HEALTH?

17 A. NO. I WOULDN'T SAY WE ACTIVELY PUBLICIZED IT.
18 AS I SAY, THERE WAS SOMETHING IN THE ANNUAL REPORT, AND
19 OBVIOUSLY, WHEN WE WERE CALLED UPON AND WE DID RESPOND TO
20 INQUIRIES AND ASKED ABOUT THE PRODUCT, THAT WAS OUR RESPONSE.
21 BUT WE DID NOT -- WE DID NOT SEEK OPPORTUNITIES TO TALK ABOUT
22 IT.

23 Q. WAS THERE ANY KIND OF CAMPAIGN AT PHILIP MORRIS
24 TO GET THE WORD OUT ABOUT ITS POSITION ON SMOKING AND HEALTH?
25 A. NO.

26 Q. WAS THERE ANY EFFORT AT PHILIP MORRIS TO
27 PERSUADE PEOPLE THAT PHILIP MORRIS HAD IT RIGHT AND THE
28 PUBLIC HEALTH COMMUNITY HAD IT WRONG?

4199

1 A. NO.

2 Q. WHAT ABOUT THE TOBACCO INSTITUTE DURING THIS
3 PERIOD?

4 A. THE TOBACCO INSTITUTE DID SPEAK ON BEHALF OF
5 THE INDUSTRY, AS I SAID. THEY DID RESPOND TO INTERVIEWS FROM
6 TIME TO TIME. AND THEY WERE MORE OUT THERE THAN CERTAINLY WE
7 WERE AS A COMPANY.

8 Q. WERE YOU SATISFIED WITH THE WAY THE TOBACCO
9 INSTITUTE WAS DOING ITS JOB?

10 A. I, PERSONALLY?

11 Q. YES.

12 A. NO.

13 Q. WHY NOT?

14 A. BECAUSE I THOUGHT THAT THEY WERE VERY
15 COMBATIVE. I THOUGHT THAT THEY TENDED TO KIND OF HAVE A

16 PREDICTABLE REACTION TO EVERYTHING WHICH WAS NEGATIVE. AND I
17 FELT THAT THEY REALLY WERE NOT REPRESENTING THE INDUSTRY VERY
18 WELL. I MEAN, IT STARTED TO BECOME CLEAR TO ME THAT SOCIETY
19 WAS CHANGING AND THAT WE NEEDED TO BE MORE REASONABLE AND
20 OPEN IN OUR APPROACH AS WELL.

21 Q. NOW, YOU MENTIONED THAT THE TOBACCO INSTITUTE
22 DURING THIS PERIOD, IT WAS STILL, BY AND LARGE, REACTING TO
23 AN EVENT; IS THAT FAIR TO SAY?

24 A. THAT'S CORRECT.

25 Q. AND BY AND LARGE WAS NOT OUT IN PUBLIC
26 ADVERTISING THE TOBACCO INDUSTRY'S POSITION?

27 A. THAT'S CORRECT.

28 Q. BUT IN YOUR OPINION, WAS REACTING IN A FAR
4200

1 TOO -- I DON'T WANT TO PUT WORDS IN YOUR MOUTH.

2 A. I THOUGHT HOSTILE. I THOUGHT DEFENSIVE.

3 I THOUGHT SOMEWHAT PREDICTABLE WAY. THEY JUST -- AGAIN, NOT
4 LISTENING. AND I GUESS DEFENSIVE IS THE BEST WORD I CAN USE
5 IN NOT BEING OPEN TO ANY KIND OF A DIALOGUE.

6 Q. DURING THIS PERIOD OF TIME, DID PHILIP MORRIS'
7 OR THE TOBACCO INDUSTRY'S POSITION ON SMOKING AND HEALTH
8 BECAME MORE POPULAR?

9 A. ON THE CONTRARY.

10 Q. WHAT DO YOU MEAN?

11 A. WELL, I THINK THAT I'VE HEARD PEOPLE SAY THAT
12 THEY THOUGHT WE BELONGED TO THE FLAT EARTH SOCIETY AT THIS
13 TIME, BECAUSE WE DIDN'T HAVE A DIFFERENT POSITION, AND THAT
14 EVERYONE -- SOMEONE ONCE SAID TO ME -- A MEDIA PERSON THAT
15 CALLED SAID, YOUR COMPANY OR YOU MUST BE THE LAST PERSON IN
16 AMERICA THAT BELIEVES WHAT YOU'RE SAYING. AND HE SAID, YOU
17 KNOW, YOU'RE JUST OUT OF TOUCH.

18 Q. AND DURING THIS TIME, PHILIP MORRIS WAS STILL
19 LOOKING AT WHAT WAS NOT PROVED INSTEAD OF WHAT WAS PROVED,
20 FAIR TO SAY?

21 A. I WOULD SAY THAT WE WERE TALKING ABOUT RISK
22 FACTOR AND WE WERE TALKING ABOUT MECHANISM, YES.

23 Q. BUT STILL NOT ADOPTING THE POSITION OF THE
24 PUBLIC HEALTH AUTHORITY AT THAT TIME?

25 A. THAT'S CORRECT.

26 Q. I'M GOING TO MOVE NOW TO THE 1990'S.

27 YOU MENTIONED AT THE BEGINNING OF YOUR
28 TESTIMONY THAT YOU MOVED TO CORPORATE AFFAIRS IN THE EARLY
4201

1 1990'S, IS THAT ABOUT RIGHT?

2 A. THAT'S CORRECT.

3 Q. DID YOU ASK TO MAKE THAT MOVE?

4 A. I DID.

5 Q. WHY DID YOU WANT TO MAKE THAT MOVE?

6 A. WELL, GOING BACK TO THE LAST QUESTION.

7 I WAS IN MARKETING AT THE TIME, AND I WAS
8 READING WHAT THE TOBACCO INSTITUTE WAS SAYING ON BEHALF OF
9 THE INDUSTRY. I WAS READING ALL THE NEGATIVE COVERAGE THAT
10 THE INDUSTRY WAS GETTING. AND I JUST THOUGHT WE COULD DO A
11 BETTER JOB. AND I'D BEEN WITH THE COMPANY FOR A LONG TIME.
12 AND I KNEW THE PEOPLE. AND I HAD A PASSION ABOUT THE COMPANY
13 AND THE PEOPLE THAT WORKED THERE. AND I FELT THAT WE COULD
14 BE BETTER REPRESENTED AND THAT WE NEEDED TO START THINKING
15 ABOUT HOW WE COULD GET INVOLVED IN TRYING TO DEAL MORE
16 PROACTIVELY AND CONSTRUCTIVELY WITH SOME OF THE ISSUES THAT
17 WERE FACING THE INDUSTRY THAN KIND OF PULLING WITHIN AND JUST
18 BEING DEFENSIVE ABOUT EVERYTHING.

19 AND SO I ASKED IF I COULD BE CONSIDERED FOR A
20 JOB IN CORPORATE AFFAIRS. AND SOME TIME AFTER I MADE THE

21 REQUEST AND A REORGANIZATION TOOK PLACE, I WAS OFFERED THE
22 JOB AS VICE-PRESIDENT OF CORPORATE AFFAIRS.

23 Q. WHAT WERE THE KINDS OF THINGS YOU THOUGHT
24 PHILIP MORRIS NEEDED TO DO?

25 A. WELL, I CERTAINLY THOUGHT WE NEEDED TO START
26 THINKING ABOUT YOUTH SMOKING IN A MORE PROACTIVE WAY. IN ALL
27 THE YEARS THAT I HAD BEEN WITH PHILIP MORRIS AND MY MARKETING
28 CAREER, I KNEW THAT WE DIDN'T MARKET OUR PRODUCT TO KIDS, BUT
4202

1 I THOUGHT THE TIME HAD COME FOR US TO NOT JUST NOT MARKET TO
2 KIDS, BUT TO DO SOMETHING AFFIRMATIVELY TO PREVENT KIDS FROM
3 SMOKING.

4 Q. AND WE'RE GOING TO TALK ABOUT THAT IN SOME MORE
5 DETAIL.

6 I'M SORRY. PLEASE CONTINUE.

7 A. I ALSO THOUGHT THAT THE WHOLE ISSUE OF
8 ENVIRONMENTAL TOBACCO SMOKE OR SECONDHAND SMOKE WAS BECOMING
9 A BIG ISSUE. AND I THOUGHT THAT WE REALLY HAD TO START
10 THINKING ABOUT NON-SMOKERS, NOT JUST SMOKERS. AND THAT WE
11 SHOULD START THINKING ABOUT WAYS THAT WE COULD FIND TO HELP
12 ACCOMMODATE EVERYBODY BY KEEPING THE PREFERENCES OF
13 NON-SMOKERS IN MIND.

14 Q. WERE YOU THE ONLY PERSON AT PHILIP MORRIS THAT
15 THOUGHT CHANGES NEEDED TO HAPPEN?

16 A. NO, I WASN'T.

17 Q. OTHERS AS WELL?

18 A. THERE WERE OTHERS AS WELL. I THINK THERE WAS
19 STARTING TO BE MORE OF A GROWING CONSENSUS THAT WE NEEDED TO
20 START CHANGING.

21 Q. YOU MENTIONED EARLIER THAT YOUR CURRENT BOSS IS
22 MIKE SZYMANCZYK; IS THAT RIGHT?

23 A. THAT'S CORRECT.

24 Q. AND WHEN DID HE BECOME PRESIDENT AND CEO OF
25 PHILIP MORRIS USA?

26 A. NOVEMBER OF '97, HE BECAME PRESIDENT AND CEO.

27 Q. DID HE ALSO RECOGNIZE THAT PHILIP MORRIS NEEDED
28 TO CHANGE ITS APPROACH TO TOBACCO ISSUES?

4203

1 A. VERY MUCH SO.

2 Q. NOW, IS IT FAIR TO SAY THAT ONE OF THE CHANGES,
3 WHAT YOU SAW EARLIER, PHILIP MORRIS ADOPTING THE SURGEON
4 GENERAL'S POSITION ON CAUSATION AND ADDICTION?

5 A. I THINK THAT'S ONE OF THE CHANGES. HAVING THE
6 WEBSITE AND HAVING IT OUT THERE WAS ANOTHER ONE OF THE
7 CHANGES.

8 Q. I WANT TO ASK YOU A LITTLE BIT MORE ABOUT
9 HAVING IT OUT THERE.

10 YOU MENTIONED A FEW MOMENTS AGO THAT BACK IN
11 THE '70'S AND THE '80'S, PHILIP MORRIS WAS NOT ACTIVELY
12 TRYING TO LET PEOPLE KNOW WHAT ITS POSITION WAS.
13 HAS THAT CHANGED?

14 A. YES.

15 Q. SINCE ADOPTING THE SURGEON GENERAL'S POSITION,
16 WHAT HAS PHILIP MORRIS DONE, OTHER THAN JUST PUTTING UP A
17 WEBSITE, TO LET PEOPLE KNOW THAT SMOKERS OUGHT TO PAY
18 ATTENTION TO THE PUBLIC HEALTH AUTHORITIES?

19 A. WELL, WHEN WE LAUNCHED THE WEBSITE, WE ALSO
20 MAILED OUT 25 MILLION FLIERS, LETTERS TO SMOKERS LETTING THEM
21 KNOW THAT THE WEBSITE WAS THERE AND THAT IT CONTAINED ALL OF
22 OUR POLICIES.

23 AT THE SAME TIME, FOR THOSE PEOPLE THAT DIDN'T
24 HAVE ACCESS TO THE WEB, WE REPRINTED THE INFORMATION THAT WAS
25 ON THE WEBSITE AND TOLD THEM IF THEY CALLED THE 1-800 NUMBER,

26 WE WOULD BE HAPPY TO SEND THEM THAT INFORMATION.
27 WE PUT THE WEB ADDRESS IN ALL OF OUR
28 ADVERTISING. WE HAD "TAKE ONE'S" AT RETAIL OUTLETS,
4204
1 7-ELEVEN'S AND SUPERMARKETS, ET CETERA, WHERE, AGAIN,
2 INFORMATION ABOUT THE WEBSITE AND ABOUT THE 800 NUMBER SO
3 THAT YOU COULD GET IN TOUCH WITH PHILIP MORRIS TO GET THAT
4 INFORMATION.
5 WE'RE FAR MORE PROACTIVE IN DOING INTERVIEWS,
6 TALKING TO THE MEDIA THAN WE EVER HAVE BEEN. AND SO WE'VE
7 DEFINITELY CHANGED THE WAY WE RUN OUR BUSINESS.
8 Q. NOW, BY GETTING THE WORD OUT ABOUT
9 PHILIP MORRIS' POSITION BEING THE SAME AS THE SURGEON
10 GENERAL'S ON THESE PUBLIC HEALTH ISSUES, WAS IT
11 PHILIP MORRIS' SENSE THAT THERE WERE PEOPLE WITH INFORMATION
12 ABOUT THE HEALTH RISKS THAT THEY DIDN'T ALREADY KNOW?
13 A. NO, NOT AT ALL.
14 Q. AND WHAT WAS THE POINT OF GETTING ALL THAT
15 INFORMATION OUT THERE?
16 A. IT WAS OUR EFFORT TO TRY AND ALIGN OURSELVES
17 MORE WITH SOCIETY TO RESPOND IN A WAY THAT SOCIETY EXPECTED
18 OF US TO EARN BACK -- TO TRY AND EARN BACK SOME OF THE
19 CREDIBILITY THAT WE LOST OVER THE YEARS IN THE WAY WE DEAL
20 WITH THE MEDIA, IN THE WAY WE PRESENT INFORMATION, TO BE MORE
21 TRANSPARENT IN THE WAY WE RUN OUR BUSINESS.
22 Q. IS IT FAIR TO SAY THAT A FEW MOMENTS AGO, YOU
23 WERE TALKING ABOUT THE '80'S, AND YOU MENTIONED THAT
24 PHILIP MORRIS HAD ISOLATED ITSELF FROM THE GOVERNMENT AND
25 FROM THE PUBLIC HEALTH AUTHORITIES ON SMOKING AND HEALTH
26 ISSUES? I'M SORRY. IS THAT YES OR NO?
27 A. THAT'S A YES. I'M SORRY.
28 Q. OKAY. THAT IT DIDN'T RESPOND TO INTERVIEWS, IT
4205
1 DIDN'T ENGAGE, IS THAT FAIR?
2 A. RIGHT.
3 Q. AND YOU MENTIONED A FEW MOMENTS AGO, THAT HAS
4 CHANGED?
5 A. YES, IT HAS.
6 Q. COULD YOU GIVE THE JURY SOME EXAMPLES OF HOW
7 THAT HAS CHANGED IN CONNECTION WITH REACHING OUT TO THE
8 GOVERNMENT AND REACHING OUT TO PUBLIC HEALTH AUTHORITIES ON
9 SMOKING AND HEALTH ISSUES?
10 A. YES, I CAN.
11 OUR RESEARCH AND DEVELOPMENT PEOPLE MEET
12 FREQUENTLY WITH MEMBERS OF THE PUBLIC HEALTH COMMUNITY, OTHER
13 SCIENTISTS, TO PRESENT FINDINGS, TO TALK TO THEM ABOUT OUR
14 PRODUCT DEVELOPMENT ISSUES, WHAT WE KNOW, WHAT THEY KNOW.
15 THEY'RE TRYING TO BUILD RELATIONSHIPS.
16 WHEN WE LAUNCHED OUR YOUTH SMOKING CAMPAIGN,
17 BEFORE WE DID ANYTHING, CAROLYN LEVY, WHO WAS A SENIOR V.P.
18 OF YOUTH SMOKING PREVENTION, WENT TO MEET WITH THE MEMBERS --
19 WITH PEOPLE AT THE CENTERS FOR DISEASE CONTROL TO UNDERSTAND
20 THEIR LEARNINGS AND THEIR OBSERVATIONS ABOUT WHAT WORKS AND
21 WHAT DOESN'T WORK WITH YOUTH SMOKING PREVENTION.
22 BOTH CAROLYN AND I WENT UP TO SEE
23 DR. GREG CONNELLY, WHO'S THE HEAD OF THE HEALTH DEPARTMENT IN
24 MASSACHUSETTS -- BECAUSE MASSACHUSETTS HAD BEEN RUNNING SOME
25 VERY EFFECTIVE YOUTH SMOKING PREVENTION ADVERTISING AND HAD
26 SOME INSIGHTS INTO WHAT DID AND DIDN'T WORK -- AND WE MET
27 WITH HIM.
28 SO WE'VE BEEN REACHING OUT TO THE PUBLIC HEALTH
4206
1 COMMUNITY, TO OUR CRITICS WHO WE NEVER USED TO TALK TO

2 BEFORE. AND NOT JUST GOING IN AND TRYING TO ADVOCATE A POINT
3 OF VIEW, BUT REALLY TRYING TO LISTEN AND LEARN AND START TO
4 ESTABLISH A DIALOGUE.

5 Q. IN A MINUTE, WE'RE GOING TO TURN TO YOUTH
6 SMOKING AND TALK ABOUT THAT IN SOME MORE DETAIL. BUT WHILE
7 WE'RE STILL ON THE GENERAL SUBJECT OF REACHING OUT TO THE
8 GOVERNMENT AND THE PUBLIC HEALTH COMMUNITY.
9 HAS PHILIP MORRIS ATTEMPTING TO REACH OUT
10 ALWAYS BEEN MET WITH OPEN ARMS?

11 A. NO, NOT AT ALL.

12 Q. CAN YOU DESCRIBE A LITTLE FURTHER WHAT YOU
13 MEAN?

14 A. WELL, LOOK. THERE ARE A LOT OF PEOPLE THAT ARE
15 SKEPTICAL ABOUT DEALING WITH US, AND WE UNDERSTAND THAT. WE
16 KNOW THAT THERE'S SKEPTICISM OUT THERE. AND WE THINK THAT
17 THE ONLY WAY TO DEAL WITH THAT SKEPTICISM IS THROUGH
18 COMMITMENT AND CONSISTENCY AND BY SHOWING PEOPLE THAT WE ARE
19 COMMITTED AND SERIOUS. BUT WE HAVE A LOT OF CRITICS AND WE
20 KNOW WE HAVE A LOT OF CRITICS, AND SO WE NEED TO WORK HARD TO
21 OPEN THAT DIALOGUE AND TO LISTEN AND TO RESPOND IN A
22 CONSTRUCTIVE WAY TO WHAT WE'RE HEARING.

23 MR. LEITER: YOUR HONOR, I'M PREPARED TO MOVE ON TO A
24 NEW SUBJECT.

25 THE COURT: I THINK IT'S TIME TO TAKE A BREAK HERE.
26 AND LADIES AND GENTLEMEN, IF YOU START FEELING
27 LIKE YOU'RE GETTING A LITTLE WOODY, ESPECIALLY AFTER LUNCH,
28 I'LL KEEP AN EYE ON YOU. SIT UP STRAIGHT. DO WHATEVER YOU
4207

1 NEED TO DO. BUT IF YOU DEFINITELY JUST HAVE TO TAKE A BREAK
2 YOURSELF BECAUSE, OTHERWISE, YOU'RE JUST GOING TO ROLL OVER
3 AND START FALLING ASLEEP, AT THAT POINT, YOU NEED TO LET ME
4 KNOW, BECAUSE YOU'VE GOT TO PAY ATTENTION ALL THROUGHOUT THIS
5 TRIAL.

6 ALL RIGHT. THANK YOU. WE'LL SEE EVERYONE AT
7 QUARTER TILL.

8

9 (RECESS.)

10

11 THE COURT: ALL RIGHT.

12 OUR JURY PANEL IS BACK WITH US.

13 GOOD AFTERNOON, LADIES AND GENTLEMEN.

14 OUR JURY IS WITH US; COUNSEL ARE PRESENT; AND
15 THE WITNESS IS ON THE STAND.

16 MA'AM, YOU STILL UNDERSTAND YOU'RE STILL UNDER
17 OATH?

18 THE WITNESS: YES, I DO.

19 THE COURT: OKAY. PLEASE BE SEATED.

20 MR. LEITER.

21 MR. LEITER: THANK YOU, YOUR HONOR.

22 THE COURT: YOU MAY PROCEED, SIR.

23 Q. BY MR. LEITER: MS. MERLO, I WANT TO TALK ABOUT
24 YOUTH SMOKING --

25 A. OKAY.

26 Q. -- WHICH IS SOMETHING WE STARTED TO TALK ABOUT
27 BEFORE THE BREAK.

28 THERE'S BEEN AN ACCUSATION IN THIS CASE THAT
4208

1 EVEN AS WE SIT HERE TODAY, PHILIP MORRIS IS MARKETING ITS
2 CIGARETTES TO UNDERAGE PEOPLE, TRUE?

3 A. ABSOLUTELY FALSE.

4 Q. YOU'VE BEEN WITH PHILIP MORRIS FOR 32 YEARS?

5 A. THAT'S CORRECT.

6 Q. SPENT A FAIR AMOUNT OF THAT TIME IN THE

7 MARKETING DEPARTMENT?

8 A. YES, I DID.

9 Q. AND NOW, YOU'VE BEEN IN CORPORATE AFFAIRS FOR
10 TEN YEARS. IN YOUR EXPERIENCE -- OR A LITTLE LESS THAN TEN
11 YEARS.

12 A. YES.

13 Q. IN YOUR EXPERIENCE, GOING BACK TO WHEN YOU
14 STARTED WITH THE COMPANY, HAS PHILIP MORRIS MARKETED ITS
15 CIGARETTES TO UNDERAGE PEOPLE?

16 A. NO, WE HAVE NOT.

17 Q. YOU SAY THAT UNEQUIVOCALLY?

18 A. I DO.

19 Q. WHY?

20 A. BECAUSE WE, FOR AS LONG AS I HAVE BEEN THERE,
21 HAVE TRIED TO BE VERY CAREFUL IN THE WAY WE MARKET OUR
22 PRODUCT, IN THE MEDIA THAT WE CHOSE TO ADVERTISE IN, IN THE
23 WAY WE CONDUCTED OUR PROMOTIONS, IN THE WAY WE CONDUCTED OUR
24 SAMPLING.

25 THERE CERTAINLY WERE RULES AND REGULATIONS THAT
26 GUIDED US. BUT EVEN BEYOND THAT, OUR OWN INTERNAL POLICIES
27 WERE TO BE VERY CAREFUL TO MAKE SURE THAT WE WERE MARKETING
28 OUR PRODUCTS ONLY TO ADULTS AND ADULT SMOKERS.

4209

1 Q. THE JURY IN THIS CASE HAS HEARD EVIDENCE THAT
2 MOST PEOPLE WHO START TO SMOKE START TO SMOKE BEFORE THEY'RE
3 18.

4 YOU'VE HEARD THAT ACCUSATION BEFORE?

5 A. I HAVE HEARD THAT.

6 Q. OKAY. AND THAT IF PEOPLE DON'T START TO SMOKE
7 BY THE TIME THEY'RE WHATEVER THE AGE MAY BE, THEY'RE NOT
8 LIKELY TO START; ISN'T THAT RIGHT?

9 A. I'VE CERTAINLY HEARD THAT, YES.

10 Q. SO WHY WOULDN'T PHILIP MORRIS WANT TO MARKET
11 ITS PRODUCTS TO UNDERAGE SMOKERS?

12 WHY WOULDN'T PHILIP MORRIS WANT UNDERAGE PEOPLE
13 TO START SMOKING?

14 A. WELL, ONE, IT'S AGAINST THE LAW. TWO, WE DO
15 MAKE A PRODUCT THAT IS ASSOCIATED WITH DISEASE AND RISK OF
16 DISEASE, AND THEREFORE, IT'S NOT APPROPRIATE FOR KIDS TO
17 SMOKE. AND WE DON'T THINK THAT KIDS SHOULD MAKE DECISIONS
18 LIKE THAT, NOR SHOULD THEY MAKE DECISIONS ABOUT ANY RISKY
19 PRODUCT, BUT CERTAINLY, IN OUR CASE, WE DON'T WANT THEM
20 MAKING DECISIONS ABOUT TOBACCO.

21 AND SO FOR US, IT'S A BUSINESS OBJECTIVE, WHICH
22 IS WHY THERE'S A SENIOR VICE-PRESIDENT THAT RUNS THAT
23 DEPARTMENT WHO IS ANSWERABLE TO MIKE SZYMANCZYK TO DO OUR
24 PART TO MAKE SURE THAT KIDS DON'T SMOKE.

25 Q. I'M GOING TO GET TO THAT DEPARTMENT IN JUST A
26 MINUTE. BUT BEFORE I DO.

27 WHAT KIND OF BUSINESS PROBLEMS WOULD MARKETING
28 TO UNDERAGE SMOKERS CREATE FOR PHILIP MORRIS, SEPARATE AND
4210

1 APART FROM IT'S ILLEGAL AND KIDS SHOULDN'T SMOKE?

2 A. WELL, I MEAN, IT'S CREATED MANY PROBLEMS. THE
3 PERCEPTION THAT WE WERE MARKETING TO KIDS, I BELIEVE, IS PART
4 OF THE REASON THAT THE INDUSTRY HAD BECOME AS VILIFIED AS IT
5 IS. EVEN THOUGH THAT IS AN INCORRECT ASSUMPTION, I DO
6 BELIEVE THAT PEOPLE BELIEVE THAT THAT'S WHAT WE WERE DOING,
7 BUT IT WASN'T TRUE, AND IT HAS CREATED PROBLEMS FOR US AS A
8 COMPANY, AND WE DON'T WANT KIDS TO SMOKE.

9 Q. OVERALL, WOULD IT BE GOOD FOR PHILIP MORRIS'
10 BUSINESS TO MARKET ITS CIGARETTES TO UNDERAGE PEOPLE?

11 A. I DON'T BELIEVE IT IS. I DON'T THINK IT'S GOOD

12 FOR OUR EMPLOYEES. I DON'T THINK IT'S GOOD FOR OUR
13 SHAREHOLDERS. IT'S CERTAINLY NOT GOOD FOR SOCIETY.
14 AND OUR POSITION IS, IF WHAT PEOPLE SAY IS
15 TRUE, THAT IF YOUNG PEOPLE DON'T SMOKE, THAT ULTIMATELY, OUR
16 BUSINESS COULD DECREASE SUBSTANTIALLY, OUR POSITION IS, SO BE
17 IT. BUT WE DON'T WANT KIDS TO SMOKE.

18 Q. OKAY. AND I'M GOING TO TALK ABOUT SOME OF THE
19 THINGS THAT PHILIP MORRIS IS DOING TODAY. BUT I WANT TO GO
20 BACK A LITTLE BIT OVER THE YEARS.

21 HAS PHILIP MORRIS HAD VARIOUS PROGRAMS OR
22 POLICIES TO PREVENT MARKETING OF ITS CIGARETTES TO UNDERAGE
23 SMOKERS?

24 A. YEAH, WE HAVE.

25 Q. AND CAN YOU BRIEFLY DESCRIBE WHAT SOME OF THOSE
26 PROGRAMS HAVE BEEN OVER TIME?

27 A. WELL, AS I SAY, IN OUR CHOICE OF THE MAGAZINES
28 THAT WE USE, WE ALWAYS LOOKED AT READERSHIP NUMBERS TO MAKE
4211

1 SURE THAT AT LEAST 85 PERCENT OF THE READERSHIP WAS OVER THE
2 AGE OF 21.

3 WHEN IT CAME TO -- WHEN WE WERE STILL SAMPLING
4 PRODUCT -- WHICH WE HAVEN'T DONE SINCE 1995, I BELIEVE, EVEN
5 BEFORE THAT -- WE HAD VERY STRICT GUIDELINES THAT WE USED
6 WITH ALL THE PEOPLE THAT SAMPLED THE PRODUCT THAT THEY HAD TO
7 SAY TO SOMEONE, ARE YOU 21 YEARS OF AGE, ARE YOU A SMOKER.

8 AND IF THE ANSWER TO BOTH OF THOSE QUESTIONS WAS NOT, I AM
9 21, AND I AM A SMOKER, YOU DIDN'T GET A SAMPLE.

10 AND WE -- I, WHEN I WAS IN CHARGE OF THE EVENT
11 GROUP, USED TO SEND PEOPLE OUT TO CHECK ON OUR SAMPLERS.
12 KIND OF A MYSTERY SHOPPER, KIND OF TO MAKE SURE THAT PEOPLE
13 WERE FOLLOWING THE RULES AND THAT THEY WEREN'T SAMPLING
14 PEOPLE -- OR LEAVING THEIR SAMPLING BINS UNATTENDED SO PEOPLE
15 COULD JUST WALK UP AND TAKE WHATEVER THEY WANTED. AND I
16 PERSONALLY DISMISSED A FEW SAMPLERS BECAUSE I FELT THAT THEY
17 WERE VIOLATING OUR RULES FOR THE WAY WE INTENDED TO SAMPLE
18 OUR PRODUCT.

19 OUR PROMOTIONAL PROGRAMS WERE FOCUSED ON ADULT
20 AND ADULT SMOKERS. SO WE TRIED VERY HARD TO MAKE SURE THAT
21 KIDS WEREN'T SMOKING.

22 WE HELPED ADVOCATE MINIMUM AGE LAWS IN THE
23 VARIOUS STATES. WE'RE SUPPORTERS OF MINIMUM AGE LAWS SO THAT
24 THE KIDS COULD NOT GET ACCESS TO CIGARETTES.

25 Q. SO PHILIP MORRIS OVER TIME HAS ENCOURAGED
26 LEGISLATION TO PREVENT KIDS FROM GETTING CIGARETTES?

27 A. WE ENCOURAGE MINIMUM AGE LAWS AND IN ENSUING
28 YEARS, WE HAVE ENCOURAGED EVEN TOUGHER LEGISLATION TO MAKE
4212

1 SURE THAT THOSE LAWS ARE ENFORCED AND THAT KIDS CAN'T GET
2 ACCESS TO CIGARETTES, ASIDE FROM SOME OF THE OTHER ACTIONS
3 AND INITIATIVES THAT WE'VE INTRODUCED OURSELVES.

4 Q. WHAT ABOUT MODELS IN CIGARETTE ADVERTISING?

5 A. WELL, GUIDELINES WERE THAT MODELS HAD TO BE AT
6 LEAST 25 YEARS OF AGE AND LOOK 25 YEARS OF AGE. AND WE WERE
7 VERY CAREFUL TO MAKE SURE THAT WE NEVER USED ANYONE IN ANY OF
8 OUR ADS THAT WAS NOT 25 YEARS OF AGE OR OVER.

9 IN FACT, I REMEMBER AT ONE POINT WHEN I WAS
10 WORKING ON VIRGINIA SLIMS, THERE WAS A NEW MODEL WHO WAS VERY
11 POPULAR, AND SHE WAS 24-1/2, AND OUR AGENCY RECOMMENDED THAT
12 WE SHOOT HER BECAUSE WE WOULDN'T RUN THE AD UNTIL SHE WAS 25,
13 AND WE WOULD NOT USE HER FOR THAT SHOOT BECAUSE SHE WAS NOT
14 25 YEARS OF AGE YET.

15 Q. OKAY. AND ARE THOSE RESTRICTIONS ON AGES FOR
16 MODELS IN ADS, IS THAT SOMETHING OF JUST THE LAST COUPLE

17 YEARS?

18 A. NO. THAT'S BEEN IN EXISTENCE AS LONG AS I CAN

19 REMEMBER.

20 Q. WHAT ABOUT SPORTS SPONSORSHIP?

21 PHILIP MORRIS HAS SPONSORED VARIOUS SPORTING

22 EVENTS OVER TIME?

23 A. THAT'S CORRECT.

24 Q. AREN'T THOSE DESIGNED TO GET KIDS WHO MIGHT
25 LIKE TENNIS OR KIDS WHO MIGHT LIKE MOTOR RACING TO ASSOCIATE
26 MARLBORO WITH SOMETHING THEY LIKE?

27 A. NO. IN FACT, OUR SPONSORSHIPS HAVE BEEN OF
28 SPORTS THAT HAVE ATTRACTED MAINLY ADULT AUDIENCES AND ANY OF
4213

1 THE PROMOTIONS THAT WE RAN ON SITE AT THOSE EVENTS WERE ONLY
2 AVAILABLE TO ADULTS.

3 Q. OKAY. BEFORE THE BREAK, WE WERE TALKING ABOUT
4 HOW, WHEN YOU CAME TO CORPORATE AFFAIRS AND IN THE YEARS
5 AFTER THAT, THERE'S BEEN A RECOGNITION THAT PHILIP MORRIS
6 NEEDS TO APPROACH CERTAIN PROBLEMS DIFFERENTLY; IS THAT
7 CORRECT?

8 A. THAT'S CORRECT.

9 Q. IS YOUTH SMOKING ONE OF THE PROBLEMS THAT
10 PHILIP MORRIS NEEDS TO APPROACH DIFFERENTLY?

11 A. YES IT IS.

12 Q. CAN YOU DESCRIBE WHAT'S DIFFERENT THAT
13 PHILIP MORRIS NEEDED TO DO?

14 A. WELL, AS I SAID EARLIER, IN THE PAST, WE DIDN'T
15 MARKET OUR PRODUCTS TO KIDS, BUT WE WERE NOT DIRECTLY
16 INVOLVED IN TRYING TO PREVENT KIDS FROM SMOKING, AND I THINK
17 THE CHANGE IS THAT NOW WE ARE ACTIVELY DEVELOPING AND
18 SUPPORTING PROGRAMS TO PREVENT KIDS FROM SMOKING.

19 Q. NOW, YOU MENTIONED EARLIER THAT THERE'S A NEW
20 DEPARTMENT AT PHILIP MORRIS WITH THAT AS ITS MISSION; IS THAT
21 CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND WHAT'S THE NAME OF THAT DEPARTMENT?

24 A. YOUTH SMOKING PREVENTION.

25 Q. AND WHEN WAS THAT DEPARTMENT LAUNCHED?

26 A. IN APRIL OF 1998.

27 Q. AND DID YOU PLAY A ROLE IN THE ESTABLISHMENT OF
28 THAT DEPARTMENT?

4214

1 A. YES, I DID.

2 Q. WHAT ROLE DID YOU PLAY?

3 A. WELL, UP UNTIL THAT TIME, OUR EFFORTS DEALING
4 WITH YOUTH SMOKING CAME UNDER CORPORATE AFFAIRS, AND BOTH
5 MIKE SZYMANCZYK AND I THOUGHT THAT IT WAS TIME FOR US TO
6 THINK ABOUT WHAT WE COULD DO BEYOND SOME OF THE THINGS THAT
7 WE WERE ALREADY DOING, WHICH WAS REALLY FOCUSED ON ACCESS
8 PREVENTION, AND HE ASKED ME TO PUT TOGETHER A GROUP TO GO OUT
9 AND THINK ABOUT THE ISSUE AND COME BACK TO HIM WITH A
10 RECOMMENDATION.

11 AND MY RECOMMENDATION TO HIM WAS THAT WE FORM A
12 FREESTANDING DEPARTMENT VERY MUCH BASED ON THE BRAND
13 MANAGEMENT MODEL OF CREATING PROGRAMS TO SPECIFICALLY DEAL
14 WITH THE ISSUE OF YOUTH SMOKING PREVENTION AND THAT IT HAVE
15 SOMEBODY AT A VERY SENIOR LEVEL REPORTING TO HIM RESPONSIBLE
16 FOR DOING THAT.

17 Q. OKAY. AND YOU WERE ONE OF THE PEOPLE WHO
18 DEVELOPED THAT DEPARTMENT FROM THE OUTSET, CORRECT?

19 A. I -- I RECOMMENDED THE DEPARTMENT. I
20 RECOMMENDED A STRUCTURE. AND THEN I WORKED WITH CAROLYN LEVY
21 AS SHE TOOK OVER AS SENIOR V.P. TO HELP HER GET IT GOING,

22 YES.

23 Q. AND THE GOAL OF THE DEPARTMENT IS NOT, AS IT
24 HAPPENED IN THE PAST, TO SIMPLY HAVE PRECAUTIONS SO THAT
25 PHILIP MORRIS WASN'T ADVERTISING TO YOUTH; THE GOAL OF THE
26 DEPARTMENT WAS TO ACTIVELY CONVINCE PEOPLE, CONVINCE KIDS,
27 NOT TO SMOKE?

28 A. IT WAS TO DEVELOP AND SUPPORT PROGRAMS THAT
4215

1 WOULD PREVENT KIDS FROM SMOKING.

2 Q. OKAY. LET'S TAKE A LOOK AT NO. 24 AGAIN, WHICH
3 IS DEMONSTRATIVE 11,030.

4 THAT'S -- WE SAW THAT BEFORE. THAT'S THE
5 ORGANIZATION; IS THAT RIGHT?

6 A. THAT'S CORRECT.

7 Q. IS THIS THE YOUTH SMOKING PREVENTION SENIOR
8 VICE-PRESIDENT OF THE DEPARTMENT WE'VE BEEN TALKING ABOUT?

9 A. YES, IT IS.

10 Q. THE HEAD OF THAT DEPARTMENT IS ANOTHER OF THE
11 PEOPLE WHO REPORTS DIRECTLY TO THE PRESIDENT AND CEO OF THE
12 COMPANY --

13 A. YES.

14 Q. -- IS THAT RIGHT? OKAY.

15 LET'S LOOK AT DEMONSTRATIVE 38, WHICH WE'LL
16 CALL 11,033.

17

18 (I.D. 11030 - DEMONSTRATIVE 38)

19

20 Q. BY MR. LEITER: WHAT IS THAT?

21 A. THAT IS THE YOUTH SMOKING PREVENTION
22 DEPARTMENT'S KIND OF FOUR-PRONGED APPROACH TO DEALING WITH
23 THE ISSUE OF YOUTH SMOKING PREVENTION.

24 Q. THIS IS THE OVERALL PROGRAM THAT THE DEPARTMENT
25 IMPLEMENTS; IT'S COMMUNICATION, EDUCATION/SCHOOLS, COMMUNITY
26 INVOLVEMENT AND ACCESS PREVENTION?

27 A. THAT'S CORRECT.

28 Q. I'D LIKE TO SPEND A LITTLE MORE TIME TALKING

4216

1 ABOUT EACH ONE.

2 THE FIRST ONE IS COMMUNICATION.

3 WHAT'S THAT?

4 A. WELL, COMMUNICATION CONTAINS ADVERTISING. BUT
5 BEYOND ADVERTISING, IT IS OUR EFFORT TO RAISE AWARENESS OF
6 THE ISSUE WITH THE VARIOUS AUDIENCES THAT NEED TO BE INVOLVED
7 IN DEALING WITH THE ISSUE OF YOUTH SMOKING PREVENTION. KIDS
8 THEMSELVES, THEIR PARENTS, YOU KNOW, COMMUNITY LEADERS, ET
9 CETERA.

10 Q. SO COMMUNICATION IS GETTING THE MESSAGE OUT
11 THAT KIDS SHOULD NOT SMOKE?

12 A. THAT'S CORRECT.

13 Q. BY THE WAY, HOW MUCH MONEY DOES PHILIP MORRIS
14 SPEND ON THE YOUTH SMOKING PREVENTION DEPARTMENT EACH YEAR?

15 A. 100 MILLION PLUS A YEAR. ABOUT. WHEN THE
16 DEPARTMENT STARTED, IT WAS 100 MILLION. I THINK THIS YEAR
17 THEIR BUDGET IS 112- OR 115 MILLION.

18 Q. PER YEAR?

19 A. PER YEAR.

20 Q. COMMUNICATION, GETTING THE MESSAGE OUT THAT
21 KIDS SHOULD NOT SMOKE.

22 WHAT'S THE MEDIUM THAT THE COMPANY CHOSE TO
23 START THE PROJECT OF GETTING THAT MESSAGE OUT?

24 A. THE MAJOR MEDIUM IS TELEVISION.

25 Q. PHILIP MORRIS DECIDED TO RUN TELEVISION
26 MESSAGES TELLING KIDS THEY SHOULDN'T SMOKE?

27 A. TELEVISION ADS, ACTUALLY, WERE CREATED WITH
28 KIDS TALKING TO KIDS ABOUT THE FACT THAT THEY SHOULDN'T
4217

1 SMOKE, THAT IT'S NOT COOL TO SMOKE, AND THEY DON'T NEED TO
2 DEFINE THEMSELVES BY SMOKING.

3 YES. THAT'S HOW WE GOT STARTED.

4 Q. WHY TELEVISION?

5 A. WELL, BECAUSE IT'S A MASS MEDIUM. IT HAS BROAD
6 REACH. AND IT WAS THE MOST EFFECTIVE WAY OF REACHING WHAT WE
7 THEN HAD IDENTIFIED AS THE TARGET AUDIENCE OF 9 TO 14 YEARS
8 OLD, THE TWEENS, WHICH IS THE AGE THAT KIDS SEEM MOST
9 VULNERABLE TO MAKING THE DECISION AS TO WHETHER OR NOT TO
10 SMOKE.

11 Q. 9-TO-14-YEAR-OLDS?

12 A. THAT'S CORRECT.

13 Q. AND THAT WAS THE ORIGINAL TARGET AUDIENCE?

14 A. THAT WAS THE ORIGINAL STARTING POINT OF THE
15 TARGET AUDIENCE, YES.

16 Q. AND HOW DID YOU SETTLE ON 9 TO 14?

17 A. WELL, AGAIN, IN DOING THE RESEARCH ON THIS
18 WHOLE AREA OF WHEN KIDS START THINKING ABOUT SMOKING AND
19 TALKING TO PEOPLE, AS I MENTIONED BEFORE, AT THE CENTER FOR
20 DISEASE CONTROL, OTHERS WHO WERE EXPERTS ABOUT KIDS AND KIDS'
21 BEHAVIOR, THAT SEEMED TO BE THE AGE WHEN WE THOUGHT WE COULD
22 INFLUENCE KIDS NOT TO SMOKE, THAT THEY PROBABLY HAD NOT YET
23 STARTED. AND, THEREFORE, GETTING THE MESSAGE OUT TO THEM AT
24 THAT POINT AND PREVENTING THEM FROM STARTING TO SMOKE WAS A
25 GOOD STARTING POINT.

26 Q. HOW DID YOU GO ABOUT -- HOW DID PHILIP MORRIS
27 GO ABOUT DEVELOPING THE ADS AND FIGURE OUT THEY MIGHT BE
28 EFFECTIVE?

4218

1 A. WELL, WE DID FOCUS GROUPS WITH KIDS 9 TO 14
2 YEARS OF AGE AS WE STARTED TO DEVELOP IDEAS. AND ALSO DID
3 THEM WITH THEIR PARENTS. NO CHILD WAS INTERVIEWED WHOSE
4 PARENT DIDN'T KNOW ABOUT IT AND GIVE PERMISSION. AND WE
5 ALSO, THEN, IN A SEPARATE GROUP, SPOKE TO THE PARENTS TO GET
6 THE IDEAS DEVELOPED. AND THOSE WERE SMALLER GROUPS.

7 AND THEN ONCE WE HAD ADS, WE WENT OUT AND WE
8 QUANTITATIVELY TESTED THEM WITH ABOUT 7,000 KIDS ACROSS THE
9 COUNTRY IN VARIOUS MALLS AND ALSO WITH PARENTS TO SEE IF THE
10 MESSAGE WAS EFFECTIVE, UNDERSTANDABLE, IMPACTIBLE.

11 Q. WHEN YOU SAY YOU QUANTITATIVELY TESTED THE
12 MESSAGES, DOES THAT MEAN THAT YOU WENT OUT AND ASKED KIDS --
13 A. THAT'S RIGHT.

14 Q. -- WHAT THEY TOOK FROM THE ADS?

15 A. THAT'S CORRECT.

16 Q. AND WHAT DID YOU FIND?

17 A. WELL, WE FOUND THAT WITH MOST OF THE ADS, THEY
18 SCORED IN THE HIGH 90'S THAT THEY WERE TAKING AWAY THE
19 MESSAGE THAT THEY SHOULDN'T SMOKE. AND THAT THERE WAS A HIGH
20 LIKABILITY, ACCEPTABILITY OF THE ADS. AND ANY CREATIVE THAT
21 DIDN'T REGISTER UP IN THE HIGH 90 PERCENTAGE RANGE, WE DID
22 NOT RUN.

23 Q. NOW, I'M GOING TO SHOW A COUPLE OF THESE ADS
24 THAT YOU'VE BROUGHT IN A COUPLE OF MINUTES. BUT BEFORE I DO,
25 I HAVE A COUPLE OF QUESTIONS I WANT TO ASK ABOUT THEM.

26 YOU MENTIONED THAT THESE ARE ADS OF KIDS
27 TALKING TO KIDS. I NOTICE THAT PHILIP MORRIS DIDN'T DEVELOP
28 ADS WITH DISEASED LUNGS AND OTHER EXPLICIT MESSAGES ABOUT

4219

1 HEALTH RISKS.

2 ANYTHING WRONG WITH THOSE MESSAGES?

3 A. NO. NOT AT ALL. IN FACT, THE CENTER FOR
4 DISEASE CONTROL SAYS THAT IT TAKES A MULTITUDE OF DIFFERENT
5 KIND OF MESSAGES TO REACH DIFFERENT KIDS AND THAT ONE SINGLE
6 MESSAGE ALONE IS NOT GOING TO BE EFFECTIVE WITH ALL KIDS.

7 WE FELT THAT THIS WAS AN AREA WHERE WE CAN
8 CONTRIBUTE. AND SO WE CHOSE THIS PATH. BUT WE ENCOURAGE ALL
9 OF THE ADS THAT DEAL WITH THE ISSUE OF SMOKING TO BE RUN.

10 Q. SO IT'S NOT PHILIP MORRIS' POSITION THAT ITS
11 ADS ARE THE ONLY APPROPRIATE ADS FOR KIDS TO SEE?

12 A. NOT AT ALL. NOT AT ALL.

13 Q. OKAY. THAT ITS MESSAGES ARE PART OF THE MIX?

14 A. THAT'S CORRECT.

15 Q. OKAY. NOW, WHEN PHILIP MORRIS DECIDED THAT IT
16 WANTED TO PUT ON TELEVISION MESSAGES TO KIDS TELLING THEM NOT
17 TO SMOKE, ISN'T IT TRUE THAT CIGARETTE ADVERTISING HASN'T
18 BEEN ALLOWED ON TELEVISION FOR 30 YEARS?

19 A. THAT'S RIGHT. AND THIS IS NOT CIGARETTE
20 ADVERTISING.

21 Q. WHAT DO YOU MEAN BY IT'S NOT CIGARETTE
22 ADVERTISING?

23 A. WELL, IT DOESN'T ADVERTISE CIGARETTES. IT
24 REALLY ENCOURAGES KIDS NOT TO SMOKE. THERE'S NO BRAND NAME
25 IN ANY OF THESE ADS. IN FACT, WE DON'T EVEN SHOW CIGARETTES
26 IN THE AD. IT'S REALLY ABOUT NOT SMOKING AND BUILDING
27 PROTECTIVE FACTORS AND POSITIVE YOUTH DEVELOPMENT.

28 Q. NOW, WHEN PHILIP MORRIS WENT TO THE TV
4220

1 NETWORKS, NBC, CBS, ABC, FOX, WHOEVER ELSE, AND SAID, HEY, WE
2 WANT TO PUT SOME MESSAGES ON TELEVISION ABOUT YOUTH SMOKING,
3 WHAT KIND OF REACTION DID THE COMPANY GET?

4 A. WELL, A FEW CHANNELS ACCEPTED IT RIGHT AWAY.

5 OTHERS HAD SOME CONCERN, BECAUSE THEY WERE NOT SPONSORED BY
6 PHILIP MORRIS, AND YOU CANNOT PUT ADVERTISING ON THE AIR
7 WITHOUT IDENTIFYING WHO IS PAYING FOR THAT ADVERTISING. SO
8 OUR NAME HAD TO BE PART OF IT.

9 AND THEY REVIEWED THE ADS, AND THEY CAME BACK
10 TO US AND SAID THAT EVEN THOUGH THESE WERE NOT CIGARETTE ADS,
11 THEY WANTED US TO PUT A HEALTH WARNING IN THE AD IN ORDER TO
12 ACCEPT THEM. AND WE READILY AGREED TO DO THAT. AND THEN
13 THEY REVIEWED THE ADS AGAIN, AND THEY THOUGHT THEY WERE
14 APPROPRIATE AND THAT WE HAD TO SHARE ALL OF OUR RESEARCH WITH
15 THE NETWORKS.

16 IN FACT, WE SUBMITTED A BOOK ABOUT THIS THICK
17 WITH ALL THE WORK WE HAD DONE IN DEVELOPING THE ADS AND ALL
18 OF THE RESPONSES THAT WE'D GOTTEN AND WHAT THE TAKE AWAY WAS,
19 AND AFTER REVIEWING ALL OF THE INFORMATION, EVERY NETWORK AND
20 EVERYONE THAT WE WENT TO ACCEPTED THE ADVERTISING.

21 Q. SO AT THE END, AFTER REVIEWING THE RESEARCH,
22 ALL THE NETWORKS DECIDED THAT IT WOULD BE APPROPRIATE TO RUN
23 THESE ADS, DID PHILIP MORRIS PAY THE NETWORKS TO RUN THESE
24 MESSAGES?

25 A. YES.

26 Q. NOW, I'M GOING TO SHOW A COUPLE OF THEM NOW.

27 WHEN DID THESE MESSAGES FIRST START RUNNING ON
28 TELEVISION?

4221

1 A. DECEMBER OF 1998.

2 Q. HOW DO YOU REMEMBER THAT?

3 A. WELL, IT WAS A BIG DAY AT PHILIP MORRIS. WE
4 WERE VERY PROUD WHEN WE PUT THESE ADS ON THE AIR, AND WE HAD
5 A GATHERING OF ALL THE PEOPLE WHO HAD WORKED ON DEVELOPING
6 THE YOUTH SMOKING PREVENTION DEPARTMENT AND THE ADS AND THE
7 PROGRAMS. AND WE WATCHED A LIVE BROADCAST OF THE FIRST AD

8 BEING RUN AT OUR CORPORATE HEADQUARTERS.
9 Q. AND OVER TIME, HAS PHILIP MORRIS DEVELOPED
10 ADDITIONAL MESSAGES TO BE RUN ON TELEVISION?
11 A. CONTINUALLY, IT'S AN ONGOING PROCESS. WE
12 CONTINUALLY DEVELOP NEW MESSAGES. WE LEARN -- WE CONTINUE TO
13 RESEARCH. WE LEARN WHAT'S WORKING, WHAT'S MORE EFFECTIVE,
14 WHAT'S LESS EFFECTIVE, AND WE DEVELOP NEW ADS AS A RESULT OF
15 THAT.

16 Q. YOU'VE SELECTED THREE OF THE ADS THAT ARE
17 TARGETED TO THE 9-TO-14-YEAR-OLD CROWD, AND I'D LIKE TO PLAY
18 THEM NOW. THEY'LL BE ON A VIDEOTAPE FOR THE CLERK WHICH
19 WE'LL DESIGNATE A NUMBER FOR.

20 LET'S PLAY 3.4.

21

22 (VIDEOTAPE BEING PLAYED.)

23

24 MR. LEITER: I'LL SHOW THE SECOND ONE, WHICH IS 3.2.

25

26 (VIDEOTAPE BEING PLAYED.)

27

28 MR. LEITER: AND THE THIRD ONE FOR THE
4222

1 9-TO-14-YEAR-OLD IS 3.1.

2

3 (VIDEOTAPE BEING PLAYED.)

4

5 Q. BY MR. LEITER: NOW, MS. MERLO, THOSE ARE
6 EXAMPLES OF THE ANTI-YOUTH SMOKING MESSAGES THAT
7 PHILIP MORRIS HAS BEEN RUNNING --

8 A. CORRECT.

9 Q. -- SINCE DECEMBER 1998?

10 A. THAT'S CORRECT.

11 Q. OKAY. NOW, I NOTICED THAT THE THIRD ONE WAS IN
12 SPANISH.

13 A. RIGHT.

14 Q. CAN YOU EXPLAIN A LITTLE BIT MORE ABOUT
15 DIFFERENT LANGUAGES THAT PHILIP MORRIS HAS DEVELOPED THESE
16 ADS IN AND DIFFERENT AREAS WHERE THEY'VE RUN?

17 A. I JUST WANT TO ADD, IT DOES NOT RUN WITH THE
18 ENGLISH SUBTITLES. THAT WAS JUST FOR THE DEMO.

19 Q. THAT WAS JUST FOR OUR PURPOSES OF THE DEMO?

20 A. YEAH.

21 WE BELIEVE WE NEED TO REACH ALL YOUTH, AND SO
22 WE HAVE DEVELOPED COMMERCIALS IN SPANISH. WE HAVE ASIAN
23 LANGUAGE COMMERCIALS. WE'VE DEVELOPED SOME COMMERCIALS FOR
24 NATIVE AMERICANS, FOR BLACK AMERICANS. I MEAN, WE HAVE A
25 BROAD RANGE OF COMMERCIALS THAT WE RUN AGAINST ALL AUDIENCES
26 BECAUSE WE THINK ALL KIDS SHOULDN'T SMOKE.

27 Q. NOW, WE'VE PREPARED DEMONSTRATIVE -- IT'S

28 NO. 78.

4223

1 IF WE CAN PUT THAT UP, PLEASE.

2 AND LET'S MARK IT 11,034.

3

4 (I.D. 11030 - DEMONSTRATIVE 24)

5

6 Q. BY MR. LEITER: AND "MY REASONS," "MIND AND
7 BODY," AND "FOLLOW THE LEADER."

8 THOSE ARE THE THREE MESSAGES WE JUST SAW?

9 A. THAT'S CORRECT.

10 Q. AND ARE THESE REPRESENTATIVE TELEVISION SHOWS

11 THAT SOME OF THOSE HAVE RUN IN --

12 A. YES.

13 Q. -- ONE OR MORE OF THEM HAVE RUN ON?

14 A. YES.

15 "MY REASONS" PREMIERED ON SUPERBOWL 2000 AND
16 THEN RAN ON MANY OTHER SHOWS AS THE ONES THAT YOU'RE SHOWING
17 HERE.

18 AND "MIND AND BODY" PREMIERED ON SUPERBOWL.
19 AND THEN THE OTHERS RUN ON SHOWS THAT APPEAL TO
20 9-TO-14-YEAR-OLDS ACROSS THE BOARD.

21 Q. WHO PICKS THE SHOWS?

22 A. WELL, WE WORK WITH OUR AGENCY, AND THEY'RE
23 CHOSEN BASED ON THEIR VIEWERSHIP, THE DEMOGRAPHICS OF THEIR
24 VIEWERSHIP. AND WE PICK THE SHOWS BASED ON WHERE WE'RE GOING
25 TO REACH THE LARGEST NUMBER OF 9-TO-14-YEAR-OLDS.

26 Q. WHY THE SUPERBOWL FOR 2000 AND FOR THIS YEAR'S
27 SUPERBOWL?

28 A. WELL, EVEN THEY -- THAT'S A VERY MIXED

4224

1 AUDIENCE. IT STILL REACHES PROBABLY THE LARGEST NUMBER OF
2 YOUNG PEOPLE IN ANY ONE SHOW OF THE SEASON.

3 THE OTHER REASON IS THAT WE FELT THAT IT WAS A
4 GOOD OPPORTUNITY, BECAUSE IT'S A FAMILY VIEWING SHOW, TO SHOW
5 THE COMMERCIALS WHEN KIDS ARE WATCHING IT WITH THEIR PARENTS,
6 BECAUSE MAYBE IT WILL TRIGGER DISCUSSION.

7 Q. SPEAKING OF PARENTS, DID PHILIP MORRIS ALSO
8 DEVELOP ANTI-YOUTH SMOKING MESSAGES TARGETED AT PARENTS?

9 A. YES.

10 Q. AND WHAT WAS THE POINT -- WHAT WAS THE PURPOSE
11 OF DOING THAT?

12 A. THE POINT WAS TO REALLY ENCOURAGE PARENTS TO
13 TALK TO THEIR KIDS ABOUT NOT SMOKING. THAT RESEARCH SAYS
14 THAT KIDS TEND TO LOOK UP TO THEIR PARENTS AND THAT IF THEIR
15 PARENTS GET INVOLVED AND GIVE THEM ADVISE ON SOMETHING,
16 THEY'RE MORE APT TO LISTEN.

17 Q. OKAY. DID YOU BRING A COUPLE OF EXAMPLES OF
18 THE MESSAGES TARGETED TO PARENTS?

19 A. YES.

20 Q. LET'S SHOW -- THERE ARE TWO OF THOSE. THE
21 FIRST ONE IS 3.5. PLAY THAT, PLEASE.

22

23 (VIDEOTAPE BEING PLAYED.)

24

25 MR. LEITER: THE SECOND ONE IS 3.3.

26

27 (VIDEOTAPE BEING PLAYED)

28 /

4225

1 Q. BY MR. LEITER: LET'S TAKE A LOOK AT
2 DEMONSTRATIVE 79. AND LET'S CALL THAT 11,035.

3

4 (I.D. 11035 - DEMONSTRATIVE 79)

5

6 Q. BY MR. LEITER: NOW, "10 O'CLOCK" AND "MOM
7 TALKS" ARE THE TWO MESSAGES WE JUST SAW?

8 A. THAT'S RIGHT.

9 Q. THIS IS A SMALLER LIST, BUT IT'S REPRESENTATIVE
10 OF SOME OF THE SHOWS THAT THOSE MESSAGES HAVE RUN ON?

11 A. TYPES OF SHOWS, THAT'S CORRECT.

12 Q. AND THOSE ARE TYPES OF SHOWS THAT --

13 A. THAT ADULTS WITH YOUNGER CHILDREN, TEENAGE
14 CHILDREN, MIGHT BE WATCHING.

15 Q. NOW, YOU MENTIONED THAT PHILIP MORRIS HAS
16 DEVOTED ABOUT OVER \$100 MILLION A YEAR TO THE YOUTH SMOKING
17 PREVENTION DEPARTMENT.

18 OVER THE FIRST COUPLE OF YEARS, HOW MUCH OF
19 THAT MONEY WAS DEVOTED TO RUNNING THESE ANTI-SMOKING MESSAGES
20 ON TELEVISION?
21 A. WELL, INITIALLY, MOST OF THE BUDGET WENT
22 TOWARDS ADVERTISING. FIRST YEAR OF LAUNCH, I WOULD SAY,
23 75 TO \$80 MILLION OF THE BUDGET WENT TO ADVERTISING.
24 AS WE'VE DEVELOPED THE PROGRAM, WE'VE CHANGED
25 THAT RATIO A LITTLE BIT TO START FUNDING SOME OF THE OTHER
26 INITIATIVES THAT ARE PART OF THE PROGRAM. AND SO NOW, I
27 WOULD SAY, WE'RE PROBABLY SPENDING ABOUT 55 OR \$60 MILLION ON
28 ADVERTISING, AND I'D SAY, 45, \$50 MILLION ON SOME OF THE
4226

1 OTHER PARTS OF THE PROGRAM.

2 Q. OKAY. I'M GOING TO TURN TO OTHER PARTS. A
3 COUPLE OF QUESTIONS FIRST.

4 PHILIP MORRIS IS A VERY PROFITABLE COMPANY,
5 ISN'T IT?

6 A. YES.

7 Q. AND IT'S BECOME EVEN MORE PROFITABLE OVER THE
8 LAST FEW YEARS, CORRECT?

9 A. YES, IT HAS.

10 Q. WHY JUST 100 MILLION?

11 WHY NOT 500 MILLION?

12 WHY NOT 10 BILLION?

13 20 BILLION?

14 50 BILLION?

15 100 BILLION?

16 A. WHEN WE DEVELOPED THE PROGRAM, WE LOOKED INTO
17 WHAT OTHER COMPANIES THAT WERE TRYING TO REACH THIS SEGMENT
18 OF THE MARKET WERE SPENDING, LIKE ATARI, DISNEY, SOME OF THE
19 MOVIE COMPANIES THAT WERE TRYING TO MARKET TO KIDS,
20 ET CETERA. AND WE ESTABLISHED A BUDGET THAT WAS COMPARABLE,
21 IF NOT SOMEWHAT HIGHER, THAN WHAT THEY WERE SPENDING.

22 THERE COMES A POINT WHEN YOU JUST CAN'T BUY
23 ANYMORE BECAUSE YOU'VE SATURATED THE MARKET IN ADVERTISING.
24 AND WE FELT THAT THE LEVEL OF BUDGET THAT WE'D ESTABLISHED
25 WAS THE APPROPRIATE LEVEL TO EFFECTIVELY REACH THE TARGET
26 AUDIENCE THAT WE'RE GOING AFTER, ESPECIALLY BASED ON WHAT
27 THESE OTHER COMPANIES WERE SPENDING.

28 Q. SO THAT WAS THE AMOUNT OF MONEY THAT IT WOULD

4227

1 TAKE TO REACH THE AUDIENCE THAT YOU WERE TRYING TO REACH?

2 A. THAT -- YES.

3 Q. OKAY. NOW, YOU MENTIONED, ALSO, JUST A MINUTE
4 AGO THAT MORE RECENTLY PHILIP MORRIS IS SPENDING A LITTLE
5 LESS ON TELEVISION MESSAGES AND MORE ON OTHER PARTS OF THE
6 PROGRAM.

7 WHY IS THAT?

8 A. WELL, I DON'T THINK WE OR ANYONE ELSE BELIEVES
9 THAT ADVERTISING ALONE IS GOING TO GET KIDS NOT TO SMOKE.
10 WHAT THE ADVERTISING DOES IS RAISE AWARENESS OF THE ISSUE.
11 HOPEFULLY, CREATES AN ENVIRONMENT WHERE THERE'S DISCUSSION
12 ABOUT THE ISSUE WITH PARENTS, WITH KIDS, KIDS GET SOME
13 REINFORCEMENT.

14 BUT UNLESS YOU DO SOME OF THE OTHER THINGS,
15 LIKE SCHOOL-BASED PROGRAMS, LIKE COMMUNITY-ACTION PROGRAMS,
16 ACCESS PREVENTION, AND REALLY BUILD A TOTAL KIND OF HOLISTIC
17 PROGRAM THAT SURROUNDS THE KID WITH THE RIGHT MESSAGES, I
18 DON'T BELIEVE, AND I KNOW THAT MANY OF THE EXPERTS IN THE
19 AREA DON'T BELIEVE THAT YOU CAN HAVE AN IMPACT IN CHANGING
20 BEHAVIOR.

21 Q. SO TO SUM UP, PHILIP MORRIS IS STILL DEVOTING
22 CONSIDERABLE MONEY TO MESSAGES TO RUN ON TELEVISION, RIGHT?

23 A. YES.
24 Q. AND IT CONTINUES TO DEVELOP NEW COMMERCIALS,
25 NEW MESSAGES?
26 A. THAT'S CORRECT.
27 Q. OKAY.
28 A. WE'RE STILL -- OUR ADVERTISING, BASED ON OUR
4228
1 LIST MEASURES, IS STILL REACHING WELL OVER 90 PERCENT OF THE
2 TARGET AUDIENCE.
3 Q. BUT THE MESSAGES ARE JUST PART OF AN
4 ALL-ENCOMPASSING PROGRAM THAT THE YOUTH SMOKING DEPARTMENT
5 HAS BEEN WORKING ON, CORRECT?
6 A. THAT'S CORRECT.
7 Q. OKAY. BEFORE WE LEAVE THE MESSAGES THAT WE'VE
8 BEEN TALKING ABOUT, LET'S TAKE A LOOK AT DEMONSTRATIVE 54,
9 AND LET'S MARK THAT AS 11,036, I BELIEVE.
10
11 (I.D. 11036 - DEMONSTRATIVE 54)
12
13 Q. BY MR. LEITER: "OTHER MEDIA OUTLETS FOR
14 PHILIP MORRIS YOUTH SMOKING PREVENTION ADS."
15 WHAT IS THIS ALL ABOUT?
16 A. WELL, WHILE TELEVISION IS A MASS MEDIA THAT
17 EFFECTIVELY REACHES THE AUDIENCE, MANY OF THESE KIDS HAVE
18 OTHER INTERESTS. THEY GO TO VIDEO STORES. THEY GO TO
19 MOVIES. THE CHANNEL ONE IS AN IN-SCHOOL CHANNEL. THEME
20 PARK, ET CETERA.
21 WE FELT THAT HAVING THE ADS RUN IN VENUES WHERE
22 KIDS GO TO ENJOY THEMSELVES AND TO DELIVER THAT "DON'T SMOKE"
23 MESSAGE WHEN THEY'RE WITH FRIENDS AND PEERS WOULD BE AN
24 EFFECTIVE WAY OF GETTING THE MESSAGES ACROSS.
25 Q. SO THEY MIGHT BE DISPLAYED ON THE VIDEO SCREENS
26 AT BLOCKBUSTER VIDEO, FOR EXAMPLE?
27 A. THAT'S RIGHT.
28 Q. NOW, WHEN WE GO TO THE MOVIES, WE SEE
4229
1 COMMERCIAL MESSAGES SOMETIMES BEFORE THE MOVIE STARTS, AND
2 ONE OF THE MESSAGES MIGHT BE ONE OF THE ADS THAT WE'VE JUST
3 LOOKED AT?
4 A. AT APPROPRIATE FILMS THAT ATTRACT THAT
5 AUDIENCE, YES, WE WOULD RUN THOSE ADS.
6 Q. OKAY. IF EVERYBODY COULD AGREE NOT TO RUN
7 COMMERCIAL MESSAGES BEFORE MOVIES, WOULD PHILIP MORRIS AGREE,
8 TOO?
9 A. I DON'T KNOW THAT WE WOULD, BECAUSE IT'S AN
10 EFFECTIVE WAY TO GET THAT DON'T SMOKE MESSAGE OUT.
11 Q. I'M NOT A FAN OF THOSE MESSAGES -- NOT THE
12 MESSAGES THAT RUN BEFORE A MOVIE.
13 OKAY. IN-STORE SPORTS NET, CHANNEL ONE, WHAT
14 ARE THOSE?
15 A. AGAIN, THEY'RE -- IN-STORE SPORTS NET IS IN
16 SOME OF THE SPORTING GOODS STORES AROUND THE COUNTRY WHERE
17 THEY RUN VIDEOS, AND KIDS GO AND SPEND TIME, SO WE ALSO HAVE
18 OUR COMMERCIALS AS PART OF THE MIX.
19 Q. OKAY. NOW, LET'S GO BACK TO DEMONSTRATIVE 38,
20 WHICH IS 11,033.
21 YOU MENTIONED THE COMMUNICATION WHICH IS WHAT
22 WE'VE BEEN TALKING ABOUT AS PART OF THIS FOUR-PART PROGRAM TO
23 ACTIVELY DISCOURAGE SMOKING AMONG YOUTH.
24 WHAT'S THE SECOND BULLET POINT,
25 EDUCATION/SCHOOLS?
26 A. IN SCHOOL CURRICULA THAT DEALS WITH THE ISSUE
27 OF SMOKING EDUCATION.

28 Q. AND TELL US A LITTLE BIT MORE ABOUT WHAT THAT
4230
1 PROGRAM IS AND HOW IT WAS DEVELOPED AND WHAT IT IS DESIGNED
2 TO ACCOMPLISH?
3 A. OKAY. IT'S CALLED LIFE SKILLS TRAINING. AND
4 IT'S A PROGRAM THAT WAS DEVELOPED BY A PROFESSOR AT STANFORD
5 UNIVERSITY AND HAS ACTUALLY BEEN IN EXISTENCE FOR QUITE SOME
6 TIME.
7 AND IT WAS ONE OF TWO PROGRAMS THAT WAS
8 EVALUATED BY THE CENTERS FOR DISEASE CONTROL AS BEING AN
9 IN-SCHOOL CURRICULA THAT WAS EFFECTIVE IN PREVENTING KIDS
10 NOT ONLY FROM SMOKING, BUT FROM TAKING DRUGS, FROM ALL RISKY
11 BEHAVIORS.
12 IT'S A THREE-YEAR PROGRAM THAT GOES INTO THE
13 SCHOOLS STARTING IN THE SIXTH GRADE, AND THEN IS IN THE
14 CURRICULA FOR THREE YEARS. THE ISSUE FOR LIFE SKILLS
15 TRAINING WAS THAT IT WAS NOT BROADLY FUNDED, AND SO WE
16 IDENTIFIED IT AS AN AREA WHERE WE COULD PROVIDE FUNDS TO
17 VARIOUS SCHOOLS SO THAT THEY COULD TRAIN TEACHERS AND BRING
18 THE CURRICULA IN AND TEACH IT.
19 Q. SO LIFE SKILLS TRAINING IS A PROGRAM THAT HAD
20 BEEN ALREADY DEVELOPED; NOT DEVELOPED BY PHILIP MORRIS?
21 A. WE HAD NOTHING TO DO WITH THE PROGRAM AT ALL
22 EXCEPT TO PROVIDE FUNDING FOR IT TO BE IMPLEMENTED IN
23 SCHOOLS.
24 Q. AND PHILIP MORRIS IS CURRENTLY PARTICIPATING IN
25 FUNDING LIFE SKILLS TRAINING IN SCHOOLS IN CERTAIN STATES?
26 A. THAT'S CORRECT.
27 Q. AND DO YOU KNOW WHICH STATES IT IS RIGHT NOW?
28 A. IT'S QUITE A FEW DIFFERENT STATES.
4231
1 WEST VIRGINIA IS ONE STATE WHERE EVERY SIXTH
2 GRADER IN WEST VIRGINIA IS BEING PROVIDED WITH LIFE SKILLS.
3 I THINK NOW IT'S ALSO SIXTH, SEVENTH GRADE, BECAUSE IT'S IN
4 THE SECOND YEAR. BUT IT'S IN CITIES ACROSS THE COUNTRY IN
5 MANY DIFFERENT STATES, BUT THAT'S THE ONLY STATE WHERE EVERY
6 SCHOOL CHILD IS GETTING IT.
7 Q. AND ABOUT HOW MANY STUDENTS WILL GET A LIFE
8 SKILLS TRAINING PROGRAM BECAUSE OF THE FUNDING PROVIDED BY
9 PHILIP MORRIS?
10 A. IT'S SEVERAL HUNDRED THOUSAND. I DON'T KNOW
11 THE EXACT NUMBER, BUT IT'S QUITE A FEW. I MEAN, WE'VE
12 PROVIDED -- WE AND BROWN AND WILLIAMSON TOBACCO COMPANY HAVE
13 COOPERATED ON FUNDING FOR THIS PROGRAM, AND WE KEEP ADDING
14 SCHOOLS AND NUMBER OF KIDS ON AN ONGOING BASIS.
15 Q. OKAY.
16 A. BUT IT'S QUITE A LARGE, SIGNIFICANT NUMBER.
17 Q. ALL RIGHT. NOW, YOU MENTIONED THAT THE CDC HAD
18 DONE AN EVALUATION OF LIFE SKILLS TRAINING; IS THAT CORRECT?
19 A. THAT'S CORRECT.
20 Q. WHAT IS THE CDC?
21 A. CENTERS FOR DISEASE CONTROL.
22 Q. AND THAT'S PART OF THE FEDERAL GOVERNMENT?
23 A. YES.
24 Q. OKAY. LET'S TAKE A LOOK AT DEMONSTRATIVE 57,
25 WHICH WOULD BE 11,036.
26 THE CLERK: -37.
27 MR. LEITER: I'M SORRY. -37.
28 /
4232
1 (I.D. 11036 - DEMONSTRATIVE 37)
2
3 Q. BY MR. LEITER: WHAT IS THAT?

4 A. THAT IS THE CDC'S EVALUATION OF THE LIFE SKILLS
5 TRAINING PROGRAM.

6 Q. AND I THINK WE'VE GOT A SECOND SLIDE, WHICH IS
7 NO. 58. LET'S CALL THAT 11,038.

8

9 (I.D. 11038 - DEMONSTRATIVE 58)

10

11 Q. BY MR. LEITER: WHICH HAS A HIGHLIGHTED SECTION
12 WHICH READS (READING):

13

14 "TWELVE MAJOR EVALUATION
15 STUDIES HAVE BEEN CONDUCTED WITH A VARIETY OF
16 PROVIDERS AND POPULATIONS TO TEST THE
17 EFFECTIVENESS OF LIFE SKILLS TRAINING.
18 FINDINGS FROM THESE STUDIES INDICATE THAT LST
19 CAN REDUCE SMOKED TOBACCO USE BY UP TO
20 87 PERCENT AND USE OF ALCOHOL AND OTHER DRUGS
21 BY UP TO 80 PERCENT."

22

23 WAS THE CDC'S EVALUATION ONE OF THE REASONS
24 THAT PHILIP MORRIS THROUGH THE YOUTH SMOKING PREVENTION
25 DEPARTMENT DECIDED TO FUND THIS PROGRAM?

26 A. THAT'S CORRECT.

27 Q. DOES PHILIP MORRIS IN ANY WAY CONTROL THE
28 CONTENT OF THE PROGRAM?

4233

1 A. NO, NOT AT ALL.

2 Q. DO THE KIDS AND TEENAGERS WHO ARE RECEIVING THE
3 PROGRAM AS A RESULT OF PHILIP MORRIS' AND
4 BROWN AND WILLIAMSON'S FUNDING, DO THEY KNOW THEY'RE GETTING
5 THE FUNDING BECAUSE THE TOBACCO COMPANIES HAVE FUNDED IT?

6 A. NO, THEY DON'T.

7 Q. LET'S GO BACK TO -- LET ME GET THE RIGHT
8 NUMBER -- NO. 38, WHICH IS 11,033. AND I SEE THE THIRD
9 BULLET POINT IS COMMUNITY INVOLVEMENT.

10 WHAT IS THAT?

11 A. COMMUNITY INVOLVEMENT IS -- LIFE SKILLS
12 TRAINING IS IN SCHOOL. COMMUNITY INVOLVEMENT IS AFTER
13 SCHOOL. HOW DO YOU BUILD PROTECTIVE FACTORS IN KIDS BY
14 PROVIDING THEM WITH AN ENVIRONMENT THAT'S POSITIVE, CREATES
15 POSITIVE YOUTH DEVELOPMENT, ET CETERA.

16 SO WE HAVE, AGAIN, FUNDED ORGANIZATIONS THAT
17 HAVE A PROVEN TRACK RECORD IN PROVIDING SERVICES, POSITIVE
18 YOUTH DEVELOPMENT SERVICES TO KIDS IN A BROAD RANGE OF
19 COMMUNITIES.

20 Q. NOW, WHY WOULD COMMUNITY INVOLVEMENT BE PART OF
21 A COMPREHENSIVE STRATEGY TO DISCOURAGE YOUTH SMOKING?

22 A. WELL, AGAIN, IT'S KIND OF TRYING TO SURROUND
23 THE CHILD WITH POSITIVE MESSAGES. ONE, COMMUNICATING FIRST
24 ABOUT NOT SMOKING; TWO, HAVING CURRICULA IN SCHOOL THAT DEALS
25 WITH IT WHEN THEY'RE GOING TO SCHOOL; AND THEN THREE, WHEN
26 THEY COME OUT OF SCHOOL, HAVING PROGRAMS THAT, AGAIN, HELP
27 BUILD THOSE POSITIVE YOUTH DEVELOPMENT FACTORS, THOSE
28 PROTECTIVE FACTORS TO HELP KIDS MAKE GOOD DECISIONS.

4234

1 Q. WHAT ARE SOME OF THE ORGANIZATIONS THAT HAVE
2 BEEN PROVIDED WITH FUNDING AS A RESULT OF THIS PROJECT OF THE
3 YSP PROGRAM?

4 A. THE 4-H BOYS AND GIRLS CLUBS, AND THEN A WIDE
5 VARIETY OF LOCAL ORGANIZATIONS IN VARIOUS COMMUNITIES.
6 IN NEW YORK, FOR INSTANCE, WE'RE WORKING WITH
7 CHESS IN THE SCHOOLS TO TEACH KIDS CHESS. AND IT'S GOTTEN A
8 LOT OF PUBLICITY ABOUT HOW IT'S ESPECIALLY WORKED IN SOME OF

9 THE INNER CITY AREAS TO BUILD PROTECTIVE FACTORS IN KIDS.
10 AND ORGANIZATIONS LIKE THAT ALL ACROSS THE
11 COUNTRY THAT HAVE GOOD AFTER-SCHOOL PROGRAMS THAT HAVE A
12 PROVEN TRACK RECORD, WE HAVE TRIED TO PROVIDE FUNDS TO.

13 Q. DO YOU RECALL ABOUT HOW MUCH MONEY
14 PHILIP MORRIS IS PROVIDING TO, SAY, THE 4-H CLUB?
15 A. THE 4-H CLUB GOT AN INITIAL GRANT OF \$4.2
16 MILLION, AND THEY DEVELOPED A PROGRAM CALLED HEALTH ROCKS
17 BASED ON THAT FUNDING THAT THEY'RE IMPLEMENTING AROUND THE
18 COUNTRY.

19 Q. AND WHAT IS THE 4-H CLUB, IN CASE ANYBODY
20 DOESN'T KNOW?

21 A. 4-H CLUB IS AN ORGANIZATION THAT HAS BEEN IN
22 EXISTENCE FOR MANY YEARS THAT STARTED, I BELIEVE, IN RURAL
23 AMERICA THAT BUILT PROTECTIVE FACTORS IN KIDS THAT CAME OUT
24 OF THE FARM BELT AND THOSE AREAS. BUT NOW, IT'S A BROAD
25 NATIONAL ORGANIZATION THAT JUST DEVOTES ITSELF TO HELPING
26 KIDS BECOME BETTER ADULTS, TO MAKE GOOD DECISIONS, ET CETERA.

27 Q. HOW MUCH MONEY HAS PHILIP MORRIS GRANTED TO THE
28 BOYS AND GIRLS CLUBS?

4235

1 A. THE BOYS AND GIRLS CLUBS, I THINK NOW WE'RE
2 ABOUT UP TO THE SAME NOW. ABOUT \$4 MILLION. IT STARTED WITH
3 A GRANT OF 2 POINT SOMETHING, BUT WE'VE MADE GRANTS TO MORE
4 CHAPTERS OF BOYS AND GIRLS CLUBS ACROSS THE COUNTRY.

5 SO . . .

6 Q. NOW, IS IT FAIR TO SAY THAT -- YOU MENTIONED
7 SOME OF THESE HAVE GOTTEN A FAIR AMOUNT OF PUBLICITY, YES?
8 A. YES. THEY'VE GOTTEN SOME PUBLICITY.

9 Q. OKAY. IS IT FAIR TO SAY THAT THERE ARE PEOPLE
10 IN OUR SOCIETY WHO, AS SOON AS THEY HEAR THE WORDS
11 PHILIP MORRIS AND KIDS PROGRAMS IN THE SAME SENTENCE ARE
12 GOING TO REACT WITH SKEPTICISM, FEAR, HORROR?

13 A. YES. AND I JUST WANT TO ADD, WE HAVE NOT
14 SOUGHT PUBLICITY FROM ANY OF THESE PROGRAMS.

15 Q. OKAY.

16 A. BUT THEY HAVE GENERATED PUBLICITY --

17 Q. OKAY.

18 A. -- BECAUSE WE'VE MADE GRANTS TO THEM.

19 Q. AND THE QUESTION THAT I WAS JUST TURNING TO
20 WAS: IS IT FAIR TO SAY THAT THERE ARE SOME PEOPLE IN SOCIETY
21 WHO REACT -- PICK YOUR WORD -- NERVOUSLY, SKEPTICALLY,
22 WHATEVER, WHEN THEY HEAR THE WORD PHILIP MORRIS TOBACCO
23 COMPANY IS PROVIDING FUNDING TO KIDS ORGANIZATIONS?

24 A. ALL OF THE ABOVE. YES.

25 Q. CAN YOU DESCRIBE A LITTLE BIT ABOUT SOME OF THE
26 CONTROVERSY OR SOME OF THE SKEPTICISM THAT YOU'VE HEARD ABOUT
27 AND WHAT PHILIP MORRIS HAS TRIED TO DO ABOUT IT?

28 A. WELL, THE 4-H CLUB IS A GOOD EXAMPLE. WHEN

4236

1 WORD CAME OUT THAT WE WERE PROVIDING FUNDING FOR THEM TO
2 CREATE A PROGRAM TO DEAL WITH YOUTH SMOKING PREVENTION,
3 SEVERAL ORGANIZATIONS, MOST NOTABLY, CENTER FOR TOBACCO FREE
4 KIDS, PUT A LOT OF PRESSURE ON THE DIRECTOR OF 4-H NOT TO
5 ACCEPT THE GRANT AND FELT THAT THE GRANT WOULD HELP US
6 ACHIEVE CREDIBILITY AND, THEREFORE, THEY SHOULDN'T TAKE MONEY
7 FROM US.

8 THE HEAD OF THE 4-H AT THE TIME CAME TO
9 PHILIP MORRIS AND MET WITH MIKE SZYMANCZYK AND MET WITH
10 CAROLYN LEVY AND TALKED IT THROUGH, AND AFTER THAT MEETING,
11 WAS CONVINCED OF OUR SINCERITY AND OUR COMMITMENT AND
12 BELIEVED THAT WE WOULD ALLOW THEM TO GO OFF AND CREATE THE
13 PROGRAM THAT THEY THOUGHT WAS APPROPRIATE TO DEAL WITH THIS

14 ISSUE. AND HE RESISTED THAT PRESSURE AND ACCEPTED THE GRANT.

15 Q. NOW, I WANT TO MOVE -- SPEAKING OF CONTROVERSY,
16 I WANT TO MOVE TO ACCESS PREVENTION IN JUST A MINUTE. BUT
17 BEFORE I DO.

18 HAS PART OF THE YOUTH SMOKING PREVENTION
19 PROGRAM BEEN RECENTLY INCLUDED THE BOOK COVERS?

20 A. YES.

21 Q. THE JURY HEARD A LITTLE BIT ABOUT THE BOOK
22 COVERS THIS MORNING.

23 CAN YOU FIRST TELL US WHAT THE BOOK COVERS
24 WERE, WHAT THEY WERE DESIGNED TO DO AND WHAT HAPPENED?
25 A. OKAY. THE BOOK COVERS WERE DESIGNED TO, AGAIN,
26 COMMUNICATE THE THINK DON'T SMOKE MESSAGE TO SCHOOL KIDS.
27 EVERY SCHOOL NOW -- OR MOST SCHOOLS, I SHOULD SAY -- REQUIRE
28 THAT KIDS COVER THEIR BOOKS. AND A LOT OF PEOPLE -- SOME
4237

1 THAT PROVIDE COMMERCIAL PRODUCTS -- PROVIDE KIDS WITH BOOK
2 COVERS, AND WE THOUGHT IT WAS AN EFFECTIVE WAY FOR US TO GET
3 THE THINK DON'T SMOKE MESSAGE INTO SCHOOLS. WE TESTED THE
4 BOOK COVERS.

5 Q. WHAT DO YOU MEAN BY YOU TESTED THEM?

6 A. WELL, WE SHOWED THEM TO KIDS TO SEE WHETHER OR
7 NOT, AGAIN, THE THINK DON'T SMOKE MESSAGE WAS BEING
8 EFFECTIVELY COMMUNICATED, WHETHER THEY GOT IT, WHETHER THEY
9 WOULD USE THE BOOK COVER, DID THEY THINK THE GRAPHICS WERE
10 ATTENTION GETTING, NEAT, AND WOULD THEY CARRY SOMETHING
11 AROUND THAT COMMUNICATED THIS MESSAGE. AND THE TESTING, LIKE
12 WITH OUR ADS, WAS VERY POSITIVE.

13 Q. SO PHILIP MORRIS SENT THEM OUT?

14 A. WELL --

15 Q. I'M SORRY. I INTERRUPTED YOU. GO AHEAD.

16 A. YES, WE DID. WE ACTUALLY DIDN'T SEND THEM OUT
17 DIRECTLY. WE HIRED A COMPANY CALLED COVER CONCEPTS.

18 Q. UH-HUH.

19 A. WHO ACTUALLY PROVIDES BOOK COVERS FOR MANY
20 DIFFERENT COMPANIES TO SCHOOLS TO SEND OUR BOOK COVERS AS
21 WELL.

22 Q. OKAY. NOW, BEFORE WE GET TO WHAT HAPPENED, LET
23 ME STOP YOU THERE.

24 HOW MANY BOOK COVERS DID PHILIP MORRIS SEND
25 OUT?

26 A. HUNDREDS OF THOUSANDS. A LOT. I DON'T KNOW
27 THE EXACT NUMBER, BUT IT WAS QUITE A FEW ACROSS THE COUNTRY.

28 Q. WERE THEY INTENDED TO SEND A SUBLIMINAL MESSAGE
4238

1 ENCOURAGING PEOPLE TO SMOKE?

2 A. ABSOLUTELY NOT. ABSOLUTELY NOT. THEY WERE
3 INTENDED TO BE AN EXTENSION OF OUR YOUTH SMOKING PREVENTION
4 CAMPAIGN. THEY WERE AN EFFORT FOR US TO COMMUNICATE DIRECTLY
5 WITH KIDS THE DON'T SMOKE MESSAGE.

6 Q. WHEN WERE THEY SENT OUT?

7 A. SOMEWHAT OVER A YEAR AGO.

8 Q. IS IT FAIR TO SAY THAT OVER THE LAST COUPLE OF
9 YEARS, PHILIP MORRIS HAS BEEN SOMEWHAT IN THE SPOTLIGHT --
10 A. YES.

11 Q. -- AND THAT ACCUSATIONS ABOUT PHILIP MORRIS
12 HAVE BEEN SOMEWHAT IN THE SPOTLIGHT?

13 A. YES.

14 Q. AND THAT ONE OF THE ACCUSATIONS THAT'S BEEN IN
15 THE SPOTLIGHT FOR SEVERAL YEARS HAS BEEN THE ACCUSATION THAT
16 PHILIP MORRIS WAS TARGETING KIDS?

17 A. YES.

18 Q. ONE OF THE ACCUSATIONS THAT WAS OUT THERE?

19 A. THAT WAS ONE OF THE ACCUSATIONS, YES.
20 Q. WITH THE SPOTLIGHT ON IT, ON YOUTH SMOKING, WAS
21 PHILIP MORRIS TRYING TO BE REAL CLEVER AND SEND OUT SUBTLE
22 MESSAGES TO KIDS BY SENDING OUT HUNDREDS OF THOUSANDS OF BOOK
23 COVERS SAYING, HEY, KIDS, LET'S GO SMOKE?
24 A. NO, ABSOLUTELY NOT.

25 Q. SO WHAT HAPPENED AFTER THEY WENT OUT?
26 A. WELL, TWO THINGS HAPPENED. SOME SCHOOLS
27 OBJECTED TO IT AND SOME STATES' ATTORNEYS GENERAL OBJECTED TO
28 IT.

4239

1 Q. AND WHAT WAS THE OBJECTION?
2 A. THE OBJECTION WAS, I THINK, THAT THE FIRST --
3 THE FIRST THAT WE HEARD WAS FROM THE STATE OF RHODE ISLAND,
4 AND THE ATTORNEY GENERAL THERE FELT THAT THERE WAS A
5 SUBLIMINAL MESSAGE IN THE BOOK COVERS. ONE WAS A GRAPHIC OF
6 A GUY ON A SNOWBOARD, AND HE SAID THAT THE SNOWBOARD REALLY
7 WAS A CIGARETTE AND THAT WE WERE SENDING THE MESSAGE
8 SUBLIMINALLY THAT KIDS SHOULD SMOKE. AND THAT'S KIND OF
9 WHERE THE CONTROVERSY STARTED.

10 WE IMMEDIATELY SHARED OUR INFORMATION WITH THAT
11 ATTORNEY GENERAL ABOUT --

12 Q. WHAT DO YOU MEAN YOU SHARED THE INFORMATION?
13 WHAT INFORMATION?

14 A. OUR RESEARCH, OUR FINDINGS, THE FEEDBACK THAT
15 WE HAD GOTTEN. BUT AS A RESULT OF THE PROTEST, WE
16 IMMEDIATELY WROTE A LETTER TO EVERY SCHOOL THAT HAD RECEIVED
17 THE BOOK COVERS MAKING THEM AWARE OF THE CONTROVERSY AND
18 TELLING THEM THAT IF THEY HAD ANY SECOND THOUGHTS ABOUT THE
19 BOOK COVER, OR IF THE CONTROVERSY, IN FACT, WERE HAVING THE
20 EFFECT OF BRINGING ATTENTION TO THE FACT THAT THESE WERE
21 PHILIP MORRIS BOOK COVERS AND HAVING THE WRONG IMPACT ON THE
22 KIDS, WE ENCOURAGED THEM TO DESTROY THE BOOK COVERS.

23 Q. AND DID A LOT OF THE BOOK COVERS GET DESTROYED?

24 A. I WOULD HAVE TO ASSUME THAT SOME OF THEM DID.
25 ALTHOUGH, AT THE SAME TIME, WE RECEIVED LETTERS BACK FROM
26 MANY SCHOOLS SAYING THAT THEY WERE USING THE BOOK COVERS.
27 THAT THEY LOVED THE BOOK COVERS, AND THEY THANKED US FOR
28 THEM. SO IT WAS KIND OF A MIXED BAG. SOME PEOPLE RESENTED
4240

1 THEM. SOME PEOPLE LIKED THEM.

2 Q. PHILIP MORRIS WAS TRYING TO DO SOMETHING
3 POSITIVE?

4 A. WE WERE.

5 Q. AND SOME PEOPLE REACTED NEGATIVELY?

6 A. THEY DID. THEY DID.

7 Q. AND WHAT DOES THAT MEAN FOR THE YSP PROGRAM?

8 A. WELL, THE YSP PROGRAM WILL CONTINUE TO PURSUE
9 ITS GOAL OF PLAYING A SIGNIFICANT ROLE IN REDUCING THE
10 INCIDENCE OF YOUTH SMOKING.
11 BUT I THINK, AS I TOLD YOU, ONE OF THE THINGS
12 THAT WE'RE REALLY TRYING TO DO THAT MAYBE WE DIDN'T DO IN THE
13 PAST IS LISTEN. AND THE FACT IS THAT THESE BOOK COVERS DID
14 CREATE CONTROVERSY, WHETHER THAT WAS OUR INTENTION OR NOT.
15 AND BEFORE WE WOULD REPEAT THAT, WE CERTAINLY WOULD THINK
16 LONG AND HARD, BECAUSE MAYBE PEOPLE ARE NOT YET READY FOR US
17 TO SUPPLY SOMETHING LIKE A BOOK COVER.

18 BUT WE'RE GOING TO CONTINUE SUPPORTING LIFE
19 SKILLS TRAINING. WE'RE GOING TO CONTINUE TO CREATE -- TO
20 SUPPORT COMMUNITY-BASED PROGRAMS. AND WE'RE GOING TO
21 CONTINUE TO RUN OUR ADVERTISING, BECAUSE WE BELIEVE THAT WE
22 ARE HAVING SOME IMPACT.
23 Q. SO WHEN WE'RE TALKING ABOUT CHANGES THAT

24 PHILIP MORRIS IS UNDERTAKING FROM THE WAY IT RAN ITS BUSINESS
25 15, 20 YEARS AGO. SIMPLY HAVING THIS PROGRAM IS A CHANGE,
26 RIGHT?
27 A. YES.
28 Q. AND SIMPLY HAVING AFFIRMATIVE PROGRAMS TO
4241
1 DISCOURAGE YOUTH SMOKING IS A CHANGE, RIGHT?
2 A. YES, IT IS.
3 Q. AND HOW PHILIP MORRIS RESPONDED WHEN IT WAS
4 CRITICIZED OVER THE BOOK COVERS IS DIFFERENT FROM THE WAY THE
5 COMPANY MIGHT HAVE RESPONDED TO CONTROVERSY 20 YEARS AGO?
6 A. I BELIEVE IT IS, YES.
7 Q. I WANT TO TURN TO THE FOURTH BULLET POINT,
8 WHICH IS ACCESS PREVENTION. AND I WANT TO SPEND A LITTLE BIT
9 OF TIME ON IT.
10 THE FIRST QUESTION IS, WHAT IS ACCESS
11 PREVENTION?
12 A. ACCESS PREVENTION IS TRYING TO INSURE THAT KIDS
13 CAN'T GET CIGARETTES. THAT THEY CAN'T BUY THEM. THAT THEY
14 CAN'T GET THEM FROM OLDER SIBLINGS. THAT THEY CAN'T GET THEM
15 INADVERTENTLY THROUGH THE MAIL. THAT THEY JUST CAN'T GET
16 THEM. BECAUSE OUR FEELING IS, IF YOU CAN'T GET THEM, YOU
17 CAN'T SMOKE THEM.
18 Q. NOW, ACCESS PREVENTION IS PART OF THE YOUTH
19 SMOKING PREVENTION DEPARTMENT THAT WAS ESTABLISHED IN 1990 --
20 A. -8.
21 Q. OKAY. BUT PHILIP MORRIS' ACCESS PREVENTION --
22 A. PREDATE THAT.
23 Q. -- STARTED BEFORE THAT, RIGHT?
24 A. THAT'S CORRECT.
25 Q. WHAT I'D LIKE TO DO IS PUT UP DEMONSTRATIVE 67,
26 AND WE CAN CALL THAT 11,039.
27
28 (I.D. 11039 - DEMONSTRATIVE 67)
4242
1 Q. BY MR. LEITER: A LOT OF WORDS ON THAT
2 DEMONSTRATIVE.
3 ARE THESE BULLET POINTS REPRESENTATIVE OF SOME
4 OF THE PROGRAMS OR EFFORTS THAT PHILIP MORRIS HAS MADE TO
5 PREVENT UNDERAGE PEOPLE FROM GETTING ACCESS TO CIGARETTES?
6 A. YES.
7 Q. AND SOME OF THOSE PREDATE 1998; IS THAT RIGHT?
8 A. THEY DO.
9 Q. WHAT I'D LIKE YOU TO DO, IF YOU DON'T MIND, IS
10 TO GO DOWN EACH BULLET POINT AND JUST SPEND A MINUTE OR TWO
11 EXPLAINING TO THE JURY WHAT THAT IS, WHAT THE PROGRAM IS, AND
12 HOW IT WORKS.
13 A. OKAY. WELL, PUNISHING RETAILERS OF OUR
14 PRODUCTS WHO ARE FINED OR CONVICTED OF SELLING CIGARETTES TO
15 MINORS.
16 AS I SAID EARLIER IN MY TESTIMONY, WE PAY
17 RETAILERS TO DISPLAY, SELL OUR PRODUCTS.
18 Q. AND BY THE WAY -- I'M SORRY TO INTERRUPT --
19 THAT'S NOT USUAL --
20 A. NO, NO.
21 Q. -- FOR A MANUFACTURER TO PAY A RETAILER FOR
22 SHELF SPACE OR POSITION OR SOMETHING LIKE THAT?
23 A. JUST ABOUT EVERY CONSUMER PRODUCT COMPANY HAS A
24 PROGRAM THAT DOES THAT.
25 AND FOR MANY OF THE RETAILERS, THAT'S A
26 SIGNIFICANT AMOUNT OF MONEY. WE HAVE MADE IT CLEAR TO
27 RETAILERS THAT IF THEY'RE FINED OR CONVICTED OF SELLING
28 PRODUCT TO MINORS, IF THEY'RE NOT PART OF THE "WE CARD"

4243

1 PROGRAM, THEY DON'T TRAIN THEIR CLERKS, WE WILL WITHHOLD
2 BENEFITS.
3 WE'LL WITHHOLD ON THE FIRST OFFENSE A MONTH.
4 SECOND OFFENSE, I THINK IT'S NOW UP TO FOUR MONTHS. AND
5 THIRD OFFENSE, YOU'RE KIND OF OUT OF THE PROGRAM FOR AT LEAST
6 A YEAR OR TWO YEARS, I THINK.

7 Q. BEFORE WE MOVE ON TO THAT.

8 THE AMOUNT OF MONEY THAT WE'RE TALKING ABOUT, I
9 DON'T KNOW THAT ANYBODY HAS ANY REAL IDEA. ARE WE TALKING
10 ABOUT A COUPLE OF BUCKS?

11 A. NO. WE'RE TALKING ABOUT -- FOR MANY OF THESE
12 RETAILERS -- AND IT'S HARD FOR ME TO PUT A DOLLAR FIGURE ON
13 IT, BECAUSE IT'S A CALCULATION THAT'S BASED ON HOW MUCH
14 PRODUCT THEY SELL AND HOW MUCH VOLUME, ET CETERA.
15 BUT FOR MANY RETAILERS, IT'S THE DIFFERENCE
16 BETWEEN PROFIT AND LOSS IN THIS CATEGORY. SO IT'S A
17 SIGNIFICANT AMOUNT OF MONEY.

18 Q. JUST TO BACK UP.

19 A. I MEAN, IT'S THOUSANDS OF DOLLARS.

20 Q. JUST TO BACK UP FOR ONE SECOND SO WE ALL HAVE
21 THE POINT IN TIME.

22 PHILIP MORRIS MANUFACTURES MARLBORO CIGARETTES
23 AND OTHER BRANDS; IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. BUT PHILIP MORRIS DOESN'T SELL CIGARETTES
26 DIRECTLY TO CONSUMERS, CORRECT?

27 A. WE DON'T SELL DIRECTLY TO CONSUMERS. IN MOST
28 CASES, WE DON'T EVEN SELL DIRECTLY TO RETAILERS. WE SELL TO
4244

1 WHOLESALERS WHO THEN SELL TO RETAILERS. SO NOW, WE'RE AT
2 LEAST, USUALLY TWO STEPS REMOVED FROM THE CONSUMER.

3 Q. BY THE WAY, DOES PHILIP MORRIS SELL CIGARETTES
4 THROUGH THE INTERNET?

5 A. ABSOLUTELY NOT. IN FACT, WE HAVE A POLICY
6 THAT, AGAIN, IF ANY ONE OF OUR CUSTOMERS WHO ARE FOUND
7 SELLING PRODUCT OVER THE INTERNET ARE IMMEDIATELY SUSPENDED.
8 THERE IS NO WARNING. WE JUST WILL NOT DO BUSINESS WITH
9 ANYBODY THAT SELLS PRODUCT OVER THE INTERNET.

10 Q. WHY NOT?

11 A. BECAUSE WE BELIEVE THAT PRODUCTS SHOULD ONLY BE
12 SOLD WHERE THERE'S A FACE-TO-FACE TRANSACTION AND AGE CAN BE
13 VERIFIED, AND THAT IS NOT SOMETHING THAT IS POSSIBLE ON THE
14 INTERNET.

15 Q. DON'T SELL THROUGH THE INTERNET.

16 SELL THROUGH MAIL ORDER?

17 A. ABSOLUTELY NOT.

18 Q. TELEPHONE?

19 A. NO.

20 Q. ONLY THROUGH RETAIL OUTLETS LIKE CONVENIENCE
21 STORES, GROCERY STORES, ET CETERA?

22 A. THAT'S WHY WE STOPPED SAMPLING AS WELL.
23 BECAUSE WE BELIEVE THAT PROOF OF AGE MUST BE PRESENTED WHEN
24 CIGARETTES ARE BEING PURCHASED.

25 Q. SO PHILIP MORRIS SELLS ITS CIGARETTES TO
26 WHOLESALERS, THE WHOLESALERS SELL THEM TO RETAILERS, AND
27 PHILIP MORRIS PROVIDES INCENTIVE MONEY TO RESELLERS -- EXCUSE
28 ME -- RETAILERS TO STOCK THE PRODUCT?

4245

1 A. THAT'S CORRECT.

2 Q. OR TO STOCK IT IN PARTICULAR POSITIONS AS

3 COMPARED TO OTHER CIGARETTE BRANDS?

4 A. THAT'S CORRECT.

5 Q. OKAY. AND THAT WOULD INCLUDE PAYMENTS FOR
6 SIGNAGE FOR MARLBORO OR OTHER CIGARETTE BRANDS IN THE STORE?

7 A. THAT'S CORRECT.

8 Q. AND THE PUNISHMENT COULD BE SIGNIFICANT AMOUNTS
9 OF MONEY TO A RETAILER?

10 A. YES, IT WOULD BE.

11 Q. OKAY?

12 A. THAT WOULD BE OVER AND ABOVE WHATEVER FINE THEY
13 HAD TO PAY TO THEIR STATE FOR BEING FINED OR CONVICTED OF
14 SELLING PRODUCT.

15 Q. NOW, THIS PROGRAM, HOW LONG HAS IT BEEN IN
16 OPERATION?

17 A. SINCE 1995.

18 Q. AND DO YOU HAVE ANY ROUGH ESTIMATE OF HOW MANY
19 RETAILERS HAVE BEEN PUNISHED?

20 A. OH, SEVERAL THOUSAND HAVE BEEN PUNISHED. BUT I
21 HAVE TO TELL YOU, OUR GOAL WITH THIS PROGRAM IS NOT TO PUNISH
22 RETAILERS. OUR GOAL WITH THIS PROGRAM IS TO GET RETAILERS
23 NOT TO SELL CIGARETTES TO MINORS. SO OUR GOAL IS REALLY TO
24 GET RETAILERS TO TRAIN THEIR CLERKS, TO SUBSCRIBE TO THE
25 "WE CARD" PROGRAM AND TO NOT SELL TO MINORS.

26 Q. THE SECOND BULLET POINT REFERS TO THE "WE CARD"
27 PROGRAM.

28 WHAT IS THE "WE CARD" PROGRAM?

4246

1 A. "WE CARD" PROGRAM IS A SIGNAGE PROGRAM. AND
2 I'M SURE MANY PEOPLE HAVE SEEN THE SIGNS WHEN THEY'VE GONE
3 INTO THEIR RETAIL OUTLET THAT SAYS, "WE CARD," AND IT MEANS
4 THAT THAT IS A RETAILER WHO TAKES THEIR RESPONSIBILITY
5 SERIOUSLY, WHO CARDS PEOPLE WHO APPEAR TO BE UNDER THE AGE OF
6 27, TO MAKE SURE THAT THEY ARE SELLING ONLY TO ADULTS.

7 Q. BY THE WAY, I WANT TO GO BACK TO RETAILERS AND
8 SIGNAGE AND MARLBORO LOGOS IN RETAILER ESTABLISHMENTS FOR
9 JUST ONE SECOND.

10 THE JURY HEARD AN ACCUSATION THIS MORNING ABOUT
11 THE PLACEMENT OF CIGARETTE PACKS OR LOGOS OR ADVERTISEMENTS
12 AT EITHER EYE LEVEL FOR KIDS OR PLACING IT NEAR THE CANDY
13 COUNTER OR SOMETHING LIKE THAT.

14 ARE YOU FAMILIAR WITH THAT ACCUSATION?

15 A. I'M FAMILIAR WITH THE ACCUSATIONS. IT'S
16 HOWEVER, NOT OUR POLICY AT PHILIP MORRIS. IN FACT, WE HAVE
17 BEEN ADVOCATING NOT SELF-SERVICE TO TOBACCO MERCHANDISING AND
18 PAY OUR RETAILERS THE HIGHEST LEVEL OF MERCHANDISING BENEFITS
19 IF THEY MERCHANDISE THE PRODUCT FROM BEHIND THE COUNTER.

20 Q. SO NO SELF-SERVICE MEANS NOBODY, ADULTS OR
21 KIDS, CAN WALK IN, PICK UP A CIGARETTE PACK AND TAKE IT TO
22 THE COUNTER?

23 A. THAT'S OUR PREFERENCE. THAT THE CATEGORY BE
24 MERCHANDISED NON SELF-SERVICE. NOW, THAT DOESN'T MEAN THAT
25 EVERY RETAILER AGREES, BUT IF THEY WANT THE HIGHEST LEVEL OF
26 PAYMENT FROM PHILIP MORRIS, THEY HAVE TO MERCHANDISE THAT
27 WAY.

28 Q. YOU CAN'T MAKE A RETAILER DO IT?

4247

1 A. IT'S THEIR BUSINESS. THEY GET TO DECIDE HOW
2 THEY MERCHANDISE THEIR PRODUCT. BUT IF THEY WANT MONEY FROM
3 US, THERE ARE CERTAIN THINGS THEY HAVE TO DO WHICH IS
4 SUBSCRIBE TO THE "WE CARD" PROGRAM OR A SIMILAR TYPE OF
5 PROGRAM, TRAIN THEIR CLERKS, ET CETERA. BUT WE CAN'T IMPOSE
6 ON THEM HOW THEY CAN SELL THEIR PRODUCT.

7 Q. BUT PHILIP MORRIS PROVIDES THE INCENTIVE THAT
8 IF THEY DO HAVE NO SELF-SERVICE, THEY GET A HIGHER LEVEL OF
9 PROMOTIONAL PAYMENTS FROM THE COMPANY?

10 A. THAT'S RIGHT.
11 Q. LET'S GO TO THE THIRD BULLET FOUND. UNDERAGE
12 SALE PROHIBITED.
13 WHAT'S THAT?
14 A. WE, IN 1995, PRINTED THAT ON EVERY PACK OF
15 CIGARETTES THAT WE MAKE. EVERY BRAND AND EVERY PACK OF
16 CIGARETTES.
17 Q. 1995 TO TODAY?
18 A. YES.
19 Q. FREE SAMPLES, I THINK WE'VE TALKED ABOUT. AND
20 I THINK WE'VE ALSO TALKED ABOUT NO SALE OF CIGARETTES OVER
21 THE INTERNET.
22 WHAT'S THAT NEXT TO LAST ONE, PREVENTS
23 UNAUTHORIZED USE OF LOGOS AND TRADEMARKS?
24 A. WELL, THAT'S -- FOR INSTANCE, IF SOMEONE WANTED
25 TO USE THE MARLBORO OR OTHER LOGO ON A NON-CIGARETTE ITEM.
26 ONE, IF WE'RE MADE AWARE OF IT, WE TAKE LEGAL ACTION
27 IMMEDIATELY TO GET PEOPLE TO CEASE AND DESIST, AND IF WE
28 DON'T, THEN WE SUE THEM.
4248
1 Q. AND WHAT'S THE LAST BULLET POINT?
2 A. THAT IS, AGAIN -- WELL, IT MIGHT COME AS A
3 SURPRISE TO A LOT OF PEOPLE. ONLY ABOUT 25 TO 30 PERCENT OF
4 THE CIGARETTES THAT KIDS GAIN ACCESS TO DO THEY GET AT
5 RETAIL. ABOUT 70 PERCENT OF THE CIGARETTES THAT KIDS GET,
6 THEY GET EITHER FROM AN OLDER SIBLING, A FRIEND, THEY FIND IN
7 THE HOME, ET CETERA.
8 AND SO WE UNDERTOOK A CAMPAIGN TO URGE PARENTS,
9 FRIENDS, OLDER SIBLINGS, ET CETERA, TO BE MORE RESPONSIBLE IN
10 WHERE THEY LEAVE THEIR TOBACCO, IN NOT GOING INTO A STORE AND
11 PURCHASING ON BEHALF OF A KID, ON NOT GIVING A KID A
12 CIGARETTE.
13 Q. YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT
14 PHILIP MORRIS IS NOT A VERY HIGHLY REGARDED COMPANY THESE
15 DAYS?
16 A. THAT'S RIGHT.
17 Q. IS IT FAIR TO SAY THAT THERE ARE SKEPTICS ABOUT
18 THE MOTIVES OF PHILIP MORRIS IN CONNECTION WITH ITS YOUTH
19 SMOKING PREVENTION DEPARTMENT AND ITS PROGRAMS?
20 A. I KNOW THERE ARE.
21 Q. OKAY. WHAT'S YOUR RESPONSE TO THEM?
22 A. WELL, LOOK. THE ONLY WAY WE'RE GOING TO EARN
23 CREDIBILITY BACK IS BY BEING CONSISTENT AND COMMITTED. AND,
24 YOU KNOW, NO AMOUNT OF WORDS TALKING IS GOING TO CONVINCE
25 PEOPLE. ONLY ACTIONS.
26 AND SO WHAT WE SAY IS, JUDGE US BY OUR ACTIONS.
27 AND IF YOU SEE US ACTING INCONSISTENTLY, IF WE'RE NOT
28 ADHERING TO WHAT WE SAY WE'RE DOING, THEN CALL US ON IT, BUT
4249
1 WE ARE COMMITTED. WE MEAN IT, AND WE SINCERELY DON'T WANT
2 KIDS TO SMOKE, AND WE'RE GOING TO CONTINUE TO PLAY A ROLE IN
3 PREVENTING KIDS FROM SMOKEING.
4 Q. ANY OUTSIDE DEADLINE FOR HOW LONG THE YOUTH
5 SMOKING PREVENTION DEPARTMENT IS GOING TO BE IN EXISTENCE AT
6 PHILIP MORRIS?
7 A. YEP. AS LONG AS ONE KID SMOKES, THERE WILL BE
8 A YOUTH SMOKING PREVENTION DEPARTMENT.
9 Q. IS THIS A PUBLIC RELATIONS MANEUVER?
10 A. NO. ABSOLUTELY NOT. IT IS A BUSINESS
11 OBJECTIVE. IT'S A SPECIFIC GOAL. CAROLYN LEVY IS JUDGED ON
12 THE PROGRAMS THAT SHE DEVELOPS. AND THIS IS VERY SERIOUS
13 BUSINESS. WE DEVOTE A LOT OF MONEY TO IT. IN FACT, IT'S THE
14 ONE AREA WHEN WE HAVE TO LOOK AT OUR BUDGET AND CONSERVE THAT

15 NEVER GETS CUT. YOUTH SMOKING PREVENTION IS A NUMBER ONE
16 PRIORITY.

17 Q. AND CAROLYN LEVY IS THE HEAD OF THE YOUTH
18 SMOKING PREVENTION DEPARTMENT?

19 A. YES, SHE IS.

20 Q. AND SHE GETS RATED ON HER SUCCESS THE SAME WAY
21 EVERYBODY GETS RATED ON THEIR SUCCESS?

22 A. ON MEETING THEIR GOALS, THAT'S RIGHT.

23 Q. YOU MENTIONED THAT PHILIP MORRIS AND COMPANY
24 THAT MANUFACTURERS AND SELLS CIGARETTES HAS AS A CORPORATE
25 OBJECTIVE STOPPING UNDERAGE PEOPLE FROM BUYING AND USING ITS
26 PRODUCT?

27 A. THAT'S RIGHT.

28 MR. LEITER: WE CAN TAKE THAT ONE DOWN. THANK YOU.

4250

1 Q. NOW, I WANT TO TALK ABOUT PHILIP MORRIS'
2 CORPORATE MISSION IN A SOMEWHAT LARGER CONTEXT.

3 HAS PHILIP MORRIS -- LET ME START IN A LITTLE
4 DIFFERENT PLACE.

5 DO YOU UNDERSTAND WHAT I MEAN BY THE PHRASE
6 "CORPORATE CULTURE"?

7 A. YES, I DO.

8 Q. WHAT IS "CORPORATE CULTURE"?

9 A. CORPORATE CULTURE IS KIND OF WHAT GUIDES
10 PEOPLE, WHAT HOLDS THEM TOGETHER, HOW THEY ACT, HOW THEY
11 PERFORM, WHAT THEIR VALUES ARE, WHAT THEIR MISSION IS, HOW
12 THEY CONDUCT THEIR BUSINESS.

13 Q. WHY IS THE CULTURE, THE CORPORATE CULTURE OF A
14 COMPANY, IMPORTANT?

15 A. BECAUSE I THINK THE CORPORATE CULTURE OF A
16 COMPANY REALLY DETERMINES HOW YOU MAKE DECISIONS, HOW YOU
17 DEAL WITH ISSUES, HOW YOU RESPOND TO PROBLEMS, HOW YOU SOLVE
18 THEM, HOW YOU DEAL WITH EACH OTHER, HOW YOU DEAL WITH
19 SOCIETY.

20 Q. WHAT HAS MR. SZYMANCZYK, YOUR BOSS, AND OTHERS
21 ON THE SENIOR MANAGEMENT TEAM DONE TO DEFINE OR ARTICULATE
22 WHAT THE CORPORATE CULTURE OF PHILIP MORRIS USA OUGHT TO BE?

23 A. WELL, WHEN HE TOOK OVER AS PRESIDENT AND CEO,
24 HE EVALUATED THE SITUATION. HE REALIZED THAT WE WERE
25 SERIOUSLY OUT OF ALIGNMENT WITH SOCIETY IN THE WAY WE WERE
26 RUNNING THE BUSINESS, AND HE FELT THAT THE BEST WAY TO GET
27 EVERYBODY FOCUSED ON THE WAY WE NEEDED TO CONDUCT OURSELVES
28 TO BECOME RESPONSIBLE AND TO EARN BACK SOME CREDIBILITY WAS

4251

1 TO CREATE A MISSION AND DEVELOP A SET OF CORE VALUES THAT
2 WOULD GUIDE THE COMPANY AND THEN TO SET SOME VERY SPECIFIC
3 GOALS FOR US AS WE MOVED FORWARD.

4 Q. TOMORROW MORNING, WE'LL TALK IN A LITTLE MORE
5 DETAIL ABOUT THE CORE VALUES AND THE MISSION STATEMENT.

6 BUT IN THE COUPLE OF MINUTES WE HAVE LEFT THIS
7 AFTERNOON, CAN YOU DESCRIBE FOR THE JURY GENERALLY HOW
8 DEVELOPING A CORE VALUES AND A MISSION STATEMENT HAVE
9 EFFECTED THE WAY PHILIP MORRIS DOES ITS BUSINESS?

10 A. IT'S REALLY CHANGED THE CORPORATE CULTURE. I
11 THINK IT'S OPENED US UP. IT'S GOTTON US TO LISTEN MORE TO
12 WHAT'S GOING ON IN SOCIETY. IT'S MADE US MORE SENSITIVE TO
13 WHAT PEOPLE ARE SAYING. IT'S CREATED MORE DIALOGUE. AND IT
14 SET A VERY SPECIFIC EXPECTATION FOR EVERY EMPLOYEE.

15 I MEAN, I THINK EVERYONE IN THE COMPANY
16 UNDERSTANDS THE MISSION, UNDERSTANDS THE VALUES AND
17 UNDERSTANDS THAT THEY'RE GOING TO BE JUDGED AND EVALUATED BY
18 HOW THEY ADHERE TO THE MISSION AND HOW THEY SUPPORT IT AND
19 HOW THEY CONDUCT THEMSELVES IN THE COURSE OF DOING BUSINESS

20 ON BEHALF OF PHILIP MORRIS.

21 Q. NOW, THE MISSION VALUE AND THE CORE STATEMENTS
22 ARE CLEARLY SET OUT GOALS FOR THE COMPANY?

23 A. THEY ARE. MEASURABLE GOALS.

24 Q. AND HOW DOES PHILIP MORRIS INSURE THAT THEY'RE
25 NOT JUST WORDS ON A PAPER?

26 A. WELL, AS I SAID, EVERY EMPLOYEE UNDERSTANDS THE
27 EXPECTATION. IT IS PART OF THEIR PERFORMANCE APPRAISAL. IN
28 OTHER WORDS, WE USE THE MISSION, THE VALUES AND THE GOALS TO
4252

1 SET OUR GOALS FOR THE YEAR, AND THEN WE'RE EVALUATED ON IT.
2 AND THAT'S HOW WE GET RAISES OR NOT. THAT'S HOW WE GET
3 PROMOTIONS OR NOT. THAT'S HOW WE ADVANCE WITHIN THE COMPANY
4 BASED ON WHETHER OR NOT WE ARE COMMITTED TO THE MISSION AND
5 THE VALUES AND THE GOALS.

6 MR. LEITER: THANK YOU, YOUR HONOR. THIS MIGHT BE A
7 GOOD PLACE TO STOP FOR THE DAY.

8 THE COURT: THANK YOU, MR. LEITER.

9 ALL RIGHT. LADIES AND GENTLEMEN, WE'LL SEE ALL
10 OF YOU AT 8:45 TOMORROW MORNING.

11 DON'T DISCUSS THE CASE WITH ANYONE.

12 YOU MAY STEP DOWN.

13 THE WITNESS: THANK YOU.

14 THE COURT: YES, MA'AM.

15 MR. CARLTON: YOUR HONOR, MAY WE HAVE JUST A MOMENT?

16

17 (THE FOLLOWING PROCEEDINGS WERE HELD
18 IN OPEN COURT OUT OF THE PRESENCE
19 OF THE JURY:)

20

21 THE COURT: WE ARE OUTSIDE THE PRESENCE.

22 COUNSEL.

23 MR. CARLTON: YOUR HONOR, WE'VE SPOKEN WITH MR. PIUZE,
24 AND NOW, WE'D LIKE TO SPEAK WITH YOU ABOUT WHETHER THERE
25 MIGHT BE A POSSIBILITY OF HAVING THE COURT MONDAY MORNING TO
26 MAYBE MAKE UP FOR A LITTLE LOST TIME?

27 THE COURT: YOU HAVE MY SUPPORT. I'D BE MORE THAN
28 HAPPY TO DO THAT.

4253

1 DO WE HAVE ANYTHING ON CALENDAR?

2

3 (THE COURT AND THE CLERK CONFER.)

4

5 THE COURT: WE'LL JUST BRING MY MORNING FOLKS IN AT
6 4 O'CLOCK IN THE AFTERNOON AFTER WE FINISH OUR DAY'S WORK.
7 REMIND ME TOMORROW MORNING SO I CAN INFORM THE
8 JURY THAT WE NEED TO CATCH UP A LITTLE BIT. I THINK THEY'LL
9 SUPPORT IT AS WELL.

10

11 (CHORUS OF THANK YOU'S.)

12

13 (AT 4:05 P.M., AN ADJOURNMENT WAS TAKEN
14 UNTIL THURSDAY, MAY 3, 2001 AT 9:00 A.M.)

15

16

17

18

19

20

21

22

23

24

25
26
27
28